1857.

SUPREME COURT OF THE UNITED STATES.

No. 178.

MOSES WANZER AND JABEZ HARRISON, APPELLANTS,

vs.

JOHN H. AND BENNET R. TRULY.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF MISSISSIPPI.

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1858.

BENNET R. and JOHN H. TRULY
vs.
MOSES WANZER and JABEZ HARRISON. } Chancery.

Pleas before the Honorable Peter V. Daniel and Samuel J. Gholson, Judges of the Circuit Court of the United States, in and for the Ninth Circuit and Southern District of Mississippi, held at the town of Jackson, at the May Term, in the year of our Lord one thousand eight hundred and fifty-three.

Be it remembered, that heretofore, to wit: On the 17th day of April, A. D. 1847, Bennet R. Truly and John H. Truly, by their solicitors, Mayes and Clifton, filed their bill of complaint against Moses Wanzer and Jabez Harrison, partners under the firm of Wanzer & Harrison, in the words and figures following, to wit:—

UNITED STATES OF AMERICA,
Ninth Judicial District:

To the Honorable, the Judges of the Circuit Court of the United States, in and for the Southern District of Mississippi, sitting in chancery.

Bennet R. Truly and John H. Truly, who reside in the county of Madison, and are citizens of the State of Mississippi, bring this their bill of complaint against Moses Wanzer and Jabez Harrison, partners under the firm of Wanzer & Harrison, of the city of New York, and citizens of the State of New York, and thereupon your orators complain and say,

That in the fall of the year 1836, your orator, Bennet R., purchased of one John R. Herbert (who shortly afterward went to Texas, where he died insolvent) five negro slaves, namely: Sam, Si, Alexander, Mary, and Peter, who had shortly before that time been brought into this State by one John R. Nicholson, as your orators are informed, and sold to said Herbert. For these negroes your orator, Bennet R. gave his two promissory notes for the sum of $3,575 each; one dated February 1, 1837, and payable to A. W. Robinson twelve months after date, and the other dated February 7, 1837, and payable twelve months after the first day of March next, thereafter, to said John R. Nicholson, being for the stipulated price of said negroes, and interest added for the time the notes had to run to maturity, and took from said Herbert and bill of sale with warranty of title against the claims of every person, which is lost or mislaid.

The last note your orator, Bennet R., has long since paid, as will appear by the record of the law side of this court, in the case of said Nicholson against him, brought to the May Term, 1838, of said court, to which reference is here made.

The defendants, Wanzer & Harrison, having obtained judgment

on the law side of this court against said John R. Herbert and others, for a large sum, sued out process of garnishment against your orator, Bennet R. and others to the May Term, 1839, of said court, and such proceedings were thereupon had; that at the November Term thereof, in the year 1839, judgment was rendered by said court in favor of said Wanzer & Harrison, against your orator Bennet R. for $3,575 and costs. Upon this judgment, a writ of *fieri facias* issued, returnable to the May Term, 1840, of said court, which was levied on certain negro slaves belonging to him, and bond given for their delivery, with your orator John H. as surety, which was forfeited.

Before any execution issued on this forfeited bond, your orator, Bennet R. filed his bill in this court, for an injunction against said judgment upon two grounds: First, That the negroes for which the note was given on which the judgment was rendered, were introduced into this State and sold in violation of the Constitution of the State; and secondly, upon information which he had received, that the same negroes were the property of minor children, of whom said John R. Nicholson was guardian, who had run them off from some other State, and sold them without authority, and in violation of their rights.

To this bill there was a general demurrer; at the May Term, 1844, it was sustained, and the injunction dissolved and the bill dismissed. From this decree an appeal was taken to the Supreme Court of the United States. At the late December Term, 1846, of that court, this decree was affirmed and since then a writ of *fieri facias* has been issued against your orators on the judgment on said forfeited bond, which being placed in the hands of the Marshal of said Southern District, has been levied on the property of your orator, the said John H. Truly.

Your orator, the said Bennet R., states that at the time he gave said forthcoming bond, he had heard only a vague and imperfect rumor, to the effect, that there was some difficulty about the title of said negroes, but said Herbert and said Nicholson having both left the country, there was no one from whom he could obtain any satisfactory information on the subject, and the Marshal pressing upon him with said execution, left him no time to go in pursuit of the facts, nor did he at that time know where to go, or to whom to apply.

Upon consultation with counsel, he was advised that the first ground relied on in said bill constituted a good defence, and although the rumors in regard to the defect of title on said slaves were inconclusive and unsatisfactory, he was advised to include that ground of defence also.

Upon the first ground your orator, Bennet R., was advised to repose with confidence; and he did so, until the decision of the Supreme Court was made as before stated.

As to the second ground of defence, your orators are informed,

that the court here proceeded upon the ground that your orator, Bennet R., was still enjoying the fruits of the purchase, that there had been no recovery of the negroes, nor suit brought nor threatened; and that if he could prevail upon a mere suggestion of an outstanding and superior title to his own, he might defeat Wanzer & Harrison in the recovery of the money, and retain the negroes without paying for them, as such title, though it might be valid might never be asserted, and this view your orators are advised was one of much force.

Your orators further state, that since the decree was rendered in this case by this court, that is to say, on the 16th day of May, in the year 1845, one Sarah C. Nicholson, of the State of Alabama, has filed her bill in the Superior Court of Chancery of the State of Mississippi, at Jackson, against your orator, setting forth among other things, that she is one of the heirs at law of Evan Nicholson, who died intestate prior to the year 1835, in St. Clair county, in the State of Alabama; that on the 5th day of November, in the year 1835, by order of the County Court of St. Clair County, aforesaid, made upon the petition of John R. Nicholson, one of the heirs of said Evan, of full age, and of Nelson Harlin (who intermarried with one of them) in right of his wife, a division of the slaves belonging to said estate took place according to law, when a negro man named Alexander was allotted to said complainant, the said Sarah A. Nicholson, of whom the said John R. Nicholson was by said court the 17th of November, 1835, appointed guardian; she being at that time in minority; for all which facts, reference is made to a copy of the record of proceedings from the County Court of said County of St. Clair, Alabama, which is filed with said bill as Exhibit *A*.

Said bill further states, that said John R. Nicholson, guardian as aforesaid, without any authority whatever, and to deprive and defraud the complainant therein of her said negro Alexander, run off and secretly conveyed said negro out of the State of Alabama.

Upon these and other allegations, the chancellor granted his fiat, among other things requiring your orator, the said Bennet R., to give bond with good surety, in the penalty of $1,200, conditioned to hold said negro, Alexander, subject to such order as might be made therein, which said bond your orator executed on the 20th day of May, 1845, with your orator John H. Truly, and Kinchin Divine, as his surety; all which will more fully appear by the record in said cause, now remaining in the office of the Clerk of the Superior Court of Chancery, aforesaid, a copy of which your orator will produce at the hearing of this cause.

And your orators further state, that on the said 16th day of May, 1845, one Ira Nicholson also filed his bill in the said Superior Court of Chancery, at Jackson, setting out, substantially, the same facts *mutadis mutandis*, with the said Sarah, as to the death of said Evan Nicholson intestate, the heirship of the complainant, the distribution

of the property, and his ownership thereby, of a negro man named Josiah, the minority of the complainant, the appointment of said John R. as his guardian, the running off of the negro by said guardian, and his present possession by your orator, Bennet R.

Upon these allegations the chancellor made a similar fiat, and your orator gave a similar bond with the same surety, all which will more fully appear by reference to the record of said suit, a copy of which your orators will produce at the hearing of this cause.

And your orators further state, that on said 16th day of May, 1845, one Isaac E. Nicholson and others also filed their bill in the said Superior Court of Chancery, in which they also state, among other things, the death of said Evan Nicholson, without will, the distribution of his property among his children by order of the County Court of said County of St. Clair, in which a negro slave, Polly, was allotted to James Nicholson, his minority, the appointment of John R. as guardian, the running off of said slave by said John R., and that she is now in possession of Samuel B. Sheldon, of Madison County, Mississippi; the bill also states the death of the said James, intestate, and without having married or owing any debt, and that the right to said slave vested thereupon, in the complainants, who are his brothers and sisters, and in said John R. Nicholson, also his brother, and in said Nelson Harlin and his wife, the latter being also his sister. Thereupon the chancellor made a fiat of like character with the first. And the said Sheldon gave bond with Jesse Heald as surety, to have said slave Polly forthcoming.

Your orators state, that the complainants in those bills are proceeding upon the idea and allegations, that the slaves Alexander, Josiah, and Polly, are three of the slaves purchased by your orator of said Herbert, who had purchased them of said John R. Nicholson, as herein before stated, where they are named as Alexander, Si, and Mary.

Your orator, Bennet R., sold the girl Mary or Polly to your orator John H., who sold her to said Samuel B. Sheldon, the defendant in said last named bill; and your orator, Bennet R., is, therefore, responsible alternately for the validity of the title to said negro slave, and has no recourse upon any one; the said Herbert having died in Texas wholly insolvent, and the said John R. Nicholson being also dead, having died wholly insolvent.

Your orators further state unto your honors, that the two suits involving the right to the slaves Alexander and Mary, or Polly, being those first and last herein before specified, are being vigorously prosecuted in said Superior Court of Chancery, and he is advised by counsel who have inspected the record from Alabama, and a deposition taken in the last named cause, that there is solid ground for apprehension that a decree will be finally obtained by the complainants therein for said negroes.

Your orators state, that in the second of said causes, being the one brought by Ira Nicholson for the recovery of Josiah, a decree has been rendered for the complainant which the complainant's counsel has agreed to set aside, and which, in case he refuses to do so, your orators are advised can be reversed, but in either event they are advised they have no right to act upon the expectation of being able, finally, to defeat the suit, inasmuch as the present condition of the case discloses no intrinsic difficulty in the way of the complainant, but only a want of formal and proper preparation.

Your orator, Bennet R., further states, that said negroes cost him on an average $1,430 each, or $7,150 for the five, originally purchased. That of this sum he paid to said Nicholson $3,575 with interest. That the negroes now sued for cost him $4,290. He has already paid to said Nicholson $715 more than the two remaining ones were estimated at, on the average, and, if the other three are recovered, must be the loser by that sum; and, if the said Wanzer and Harrison could succeed in enforcing and collecting this judgment, the original cost of said three negroes $4,290, and eight years interest must be added to said $715 and interest, making an aggregate loss to your orator, Bennet R., of $6,700.

Your orators ask the aid of your honors in averting such ruinous injustice, and that said Wanzer and Harrison be made defendants to this bill.

They do not make the parties to said bills as complainants, defendants to this bill, because of the limited jurisdiction of this court; nor do they, for the like reason, and others herein before stated, make said Herbert or his representatives. It is the purpose of your orators in good faith to defend said suit in equity, and they are willing that said Wanzer and Harrison may employ counsel to aid the counsel of your orators in defending said suits; they are, moreover, willing that said Wanzer and Harrison may be made defendants to said suits if they think proper to make application for that purpose; and in that event, your orators are willing to surrender to them the negroes Alexander and Si, or Josiah, and will also cause to be delivered to them the negro girl Mary, or Polly; and here offer to do so if they will take upon themselves the burden of the litigation, and discharge your orator from said judgment. The whole matter can only be litigated, and the rights of all parties equitably adjusted in the said Superior Court of Chancery, and to that forum the said Wanzer and Harrison are respectfully requested to repair. That court will, at all events, decide whether said three negro slaves are the property of the several complainants in said bills, and if it should decide that they are, it would be grossly unjust and inequitable that your orators should lose the negroes and have to pay said judgment also. And inasmuch as from the nature of your honors' jurisdiction the whole controversy cannot be litigated and the rights of all parties settled in this court, they pray your honors to grant them the writ of injunction enjoining and restrain-

whether the other ground of want of title and insolvency was not relied on.

5. Whether the said suits in Chancery, for the recovery of said negroes, have not been instituted since the dissolution of the injunction, filed by complainant Bennet, and since the same was affirmed by the Supreme Court of the United States.

6. Whether the said Herbert is not dead, and his estate insolvent.

7. Whether said Herbert did not purchase said negroes of John R. Nicholson, and whether he is not also dead and insolvent; and did not complainant Bennet purchase them of said Herbert.

MAYES & CLIFTON & HAYES,
Sol. for Compl'ts.

THE STATE OF MISSISSIPPI,
Monroe County:

This day Bennet R. Truly, one of the complainants in the foregoing bill, personally appeared before the undersigned, Judge of the District Court of the United States, for the Southern District of Mississippi, and after being first sworn by me, states that the matters and things set forth in said bill, as of his own knowledge are true, and those stated upon the information of others he believes to be true.

B. R. TRULY.

Sworn to and subscribed before me this 12th day of April, 1847.
S. J. GHOLSON,
Judge, &c.

To the Clerk of the Circuit Court of the United States, for the 9th Circuit and Southern District of Mississippi.

Let injunction and subpœna issue as prayed for upon the complainants entering into bond, with security to be approved by you, in a penalty equal to double the amount of the judgment at law, conditioned according to law.

Given under my hand this 12th day of April, 1847.
S. J. GHOLSON,
Judge U. S. D. C. for Mississippi.

UNITED STATES OF AMERICA,
Southern District of Mississippi, sct:

Know all men by these presents, that we, Bennet R. Truly, John H. Truly and Alfred O. Downs, are held and firmly bound unto Moses Wanzer and Jabez Harrison (partners under the firm of Wanzer & Harrison) in the just and full sum of eleven thousand eight hundred and eight dollars, lawful money of the United States, to be paid to the said Wanzer & Harrison, their executors, administrators or assigns, for which payment well and truly to be made,

ing said Wanzer & Harrison, and all others, their agents and attorneys, from proceeding to collect said judgment by a sale of said negroes, levied on as aforesaid, or in any other manner until the right of property in said slaves, Alexander, Josiah (or Si), and Mary (or Polly), shall be fully heard, and finally determined by the said Superior Court of Chancery; and, in the mean time, that the slaves levied on as aforesaid by the marshal be restored to your orators; and if said right shall be finally decided in favor of said complainants as the heirs and distributors of said Evan Nicholson, then your orators pray that the said injunction, by decree of your honors, be made perpetual. And your orators pray for process of subpœna directed, &c., commanding, &c., and for all such other and further or different relief as it may be within the competency of your honors to grant, and suitable to the nature and hardship of your orators' case; and, as in duty bound, your orators will ever pray, &c.

To the end, therefore, that the said defendants Wanzer and Harrison, may if they can, show why your orator should not have the relief hereby prayed, and may upon their several and respective corporeal oaths, and according to the best of, and utmost of their several and respective knowledge, remembrance, information and belief, full, true and direct and perfect answer make to such of the several interrogatories hereinafter numbered and set forth, as by the note hereunder written, they are respectively required to answer, that is to say:—

1. Whether the said defendants did not sue out process of garnishment on a judgment they had obtained, on the law side of this court, against said Herbert and others, or the complainant Bennet R. Truly, and by that means obtained judgment against said complainant, on account of the amount then supposed to be due by him to said Herbert.

2. Whether the said note, to the amount of which it was supposed the said Bennet R. was indebted to said Herbert, was not executed for a portion of the purchase money of the negroes Alexander, Josiah, alias Si, Polly, alias Mary, by said Herbert, of whom the said Bennet purchased them.

3. Whether there are not now pending in the Superior Court of Chancery, in this State, at Jackson, three writs, to recover said negroes, one in favor of Sarah C. Nicholson, against the complainants, for the recovery of said negro Alexander, one in favor of Ira Nicholson, against the complainants, for Josiah, alias Si, and the other in favor of Isaac E. Nicholson and others, against Samuel B. Sheldon, as stated in the bill, to whom the complainant Jno. H. Truly, sold Polly, alias Mary, for her recovery.

4. Whether in the suit in Chancery by bill of injunction against you, the ground of defence on the part of complainants, was not that the negroes had been brought to this State and sold in violation of the Constitution and laws of the State of Mississippi; and

We therefore, in consideration of the premises, and of the allegations in said bill contained, strictly enjoin and command you, the said Moses Wanzer and Jabez Harrison, the Marshal of the Southern District of Mississippi, and all others, under the penalty of five hundred dollars, to be levied of your goods and chattels, lands, and tenements, to our use, that you absolutely refrain from collecting a certain judgment in our said Court, for $3,575, rendered on the 15th day of November, 1839, in favor of said Wanzer & Harrison *vs.* said B. R. and J. H. Truly (forthcoming bond forfeited at May, 1840), by sale of certain slaves, levied on by virtue of an execution in said case, now in the hands of said Marshal, or in any other manner enforcing the same, and from any further proceedings against the said complainants, touching the matters in said bill contained, until our said court shall make another order to the contrary.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at Jackson, 1st Mon-
[L. S.] day in November, A. D. 1846, and in the 71st year of the Independence of the United States of America.

Issued the 19th day of April, A. D. 1847.

W. H. BROWN,
Clerk.

Per CHAS. M. ROGERS,
D. Clerk.

Marshal's Return.

Executed on the 23d of April, 1847.

THOMAS FLETCHER,
Marshal.

By R. FLETCHER,
D. Marshal.

Subpœna.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss.

The President of the United States, to Moses Wanzer and Jabez Harrison, greeting: For certain causes offered before us, in our Circuit Court for the Southern District of Mississippi, sitting in chancery, we command you, that, laying all other matters aside, and notwithstanding any excuse, you personally appear at our Circuit Court, in and for said District, sitting in chancery, to be held at the town of Jackson, on the 1st Monday of May, to answer to a bill of complaint exhibited against you by Bennet R. Truly and John H. Truly, complainants, in our said court; and further, to do and receive what our said court shall consider in this behalf. Hereof fail not, as you will answer the contrary at your peril.

we bind ourselves, our heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated the 17th day of April, A. D. 1847.

The condition of this obligation is such, that, whereas the above bound Bennet R. Truly and John H. Truly, have obtained from the honorable Samuel J. Gholson, one of the Judges of the Circuit Court of the United States, for the Southern District of Mississippi, an injunction to stay all further proceedings at law, in a certain judgment in said Court, against the said Bennet R. Truly, rendered on the 15th November, 1839, for $3,575, together with interest and costs. Bond taken and forfeited with John H. Truly as security, on 4th day of May, A. D. 1840, at the suit of the said Wanzer and Harrison.

Now, if the said Bennet R. Truly and John H. Truly, in case the said injunction shall be dissolved, shall well and truly pay all money and costs due, and to become due, to the said Wanzer & Harrison, partners as aforesaid, the plaintiffs in the said judgment, and also all such costs and damages, as shall be awarded against them, then this obligation to be void, otherwise to be and remain in full force and virtue. Sealed and delivered in the presence of

B. R. TRULY, [SEAL.]
JNO. H. TRULY, [SEAL.]
A. O. DOWNS. [SEAL.]

UNITED STATES OF AMERICA,
Southern District of Mississippi:

Personally appeared before the undersigned commissioner, Alfred C. Downs, who made oath that after the payment of all his debts and liabilities, security or otherwise, he is worth the amount of the penalty of the within bond, $11,808.

A. C. DOWNS.

Sworn to and subscribed before me, this 17th day of April, 1847.

W. H. BROWN,
U. S. Com.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

The President of the United States, to Moses Wanzer and Jabez Harrison, their counsellors, attorneys and agents, greeting:—

Whereas, it has been represented to us, in our Circuit Court for the Ninth Circuit and Southern District of Mississippi, in Chancery sitting, on the part of Bennet R. Truly and John H. Truly, complainants, that they have lately exhibited their bill of complaint, against you the said Moses Wanzer and Jabez Harrison, defendants, to be relieved, touching the matters in said bill contained.

we bind ourselves, our heirs, executors and administrators, firmly by these presents, sealed with our seals, and dated the 17th day of April, A. D. 1847.

The condition of this obligation is such, that, whereas the above bound Bennet R. Truly and John H. Truly, have obtained from the honorable Samuel J. Gholson, one of the Judges of the Circuit Court of the United States, for the Southern District of Mississippi, an injunction to stay all further proceedings at law, in a certain judgment in said Court, against the said Bennet R. Truly, rendered on the 15th November, 1839, for $3,575, together with interest and costs. Bond taken and forfeited with John H. Truly as security, on 4th day of May, A. D. 1840, at the suit of the said Wanzer and Harrison.

Now, if the said Bennet R. Truly and John H. Truly, in case the said injunction shall be dissolved, shall well and truly pay all money and costs due, and to become due, to the said Wanzer & Harrison, partners as aforesaid, the plaintiffs in the said judgment, and also all such costs and damages, as shall be awarded against them, then this obligation to be void, otherwise to be and remain in full force and virtue. Sealed and delivered in the presence of

B. R. TRULY, [SEAL.]
JNO. H. TRULY, [SEAL.]
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W. H. BROWN,
U. S. Com.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

The President of the United States, to Moses Wanzer and Jabez Harrison, their counsellors, attorneys and agents, greeting:—

Whereas, it has been represented to us, in our Circuit Court for the Ninth Circuit and Southern District of Mississippi, in Chancery sitting, on the part of Bennet R. Truly and John H. Truly, complainants, that they have lately exhibited their bill of complaint, against you the said Moses Wanzer and Jabez Harrison, defendants, to be relieved, touching the matters in said bill contained.

We therefore, in consideration of the premises, and of the allegations in said bill contained, strictly enjoin and command you, the said Moses Wanzer and Jabez Harrison, the Marshal of the Southern District of Mississippi, and all others, under the penalty of five hundred dollars, to be levied of your goods and chattels, lands, and tenements, to our use, that you absolutely refrain from collecting a certain judgment in our said Court, for $3,575, rendered on the 15th day of November, 1839, in favor of said Wanzer & Harrison *vs.* said B. R. and J. H. Truly (forthcoming bond forfeited at May, 1840), by sale of certain slaves, levied on by virtue of an execution in said case, now in the hands of said Marshal, or in any other manner enforcing the same, and from any further proceedings against the said complainants, touching the matters in said bill contained, until our said court shall make another order to the contrary.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at Jackson, 1st Mon-
[L. S.] day in November, A. D. 1846, and in the 71st year of the Independence of the United States of America.

Issued the 19th day of April, A. D. 1847.

W. H. BROWN,
Clerk.

Per CHAS. M. ROGERS,
D. Clerk.

Marshal's Return.

Executed on the 23d of April, 1847.

THOMAS FLETCHER,
Marshal.

By R. FLETCHER,
D. Marshal.

Subpœna.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss.

The President of the United States, to Moses Wanzer and Jabez Harrison, greeting: For certain causes offered before us, in our Circuit Court for the Southern District of Mississippi, sitting in chancery, we command you, that, laying all other matters aside, and notwithstanding any excuse, you personally appear at our Circuit Court, in and for said District, sitting in chancery, to be held at the town of Jackson, on the 1st Monday of May, to answer to a bill of complaint exhibited against you by Bennet R. Truly and John H. Truly, complainants, in our said court; and further, to do and receive what our said court shall consider in this behalf. Hereof fail not, as you will answer the contrary at your peril.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at Jackson, the first Monday in November, A. D. one thousand eight hundred and forty-six, and in 71st year of the Independence of the United States.

[L. S.]

Issued the 19th day of April, 1847.

W. H. BROWN,
Clerk.

Per CHAS. H. ROGERS,
D. Clerk.

To the Marshal of the Southern District of Mississippi, to execute and return. To be executed on Buckner & Stewart and Van Winkle & Potter, attorneys for Wanzer and Harrison:

Marshal's Return.

Executed on Van Winkle and Potter 19th April, 1847.

Executed on Buckner and Stewart 23d April, 1847.

THOS. FLETCHER,
Marshal.

Per R. FLETCHER,
D. Marshal.

And afterwards, to wit, on the first day of May, 1847, the defendants by Van Winkle and Potter, their solicitors, filed their demurrer to the bill of complaint filed by complainants herein, in the words and figures following, to wit:

In the Circuit Court of the United States for the Southern District of Mississippi, May Term, 1847. In Chancery.

The demurrer of Moses Wanzer and Jabez Harrison, partners under the firm of Wanzer & Harrison, defendants to the bill of complaint of Bennet R. Truly and John H. Truly, complainants.

These defendants by protestation, not confessing or acknowledging all or any of the matters and things in the said complainants' bill contained to be true in such manner and form as the same are therein and thereby set forth and alleged, do demur to the said bill, and for causes of demurrer show, that the said complainants have not by their said bill made such a case as entitles them in a Court of Equity to any discoveries from these defendants respectively, or either of them, or to any relief against them, as to the matter contained in the said bill, or any of such matters; and that any discovery which can be made by these defendants, or either of them, touching the matters complained of in the said bill, or any of them,

cannot be of any avail to the said complainants for any of the purposes for which a discovery is sought against these defendants by the said bill, nor entitle the said complainants to any relief in this court, touching any of the matters therein complained of.

The said Bennet R. is precluded by the said original judgment and by the said decree.

The said John H. comes too late; he should have joined in said former bill. The said defendants are precluded by the giving of said forthcoming bond and the forfeiture thereof. Their failure to deliver the slaves levied on, pursuant to the conditions of the bond, is not excused by the matters in this bill alleged, or any of them. It is not shown that the matters alleged as equities might not have been set up in due time before the forfeiture of said bond. Complainants do not offer to do equity; they do not tender back or give defendants the benefit of said slaves, nor tender and bring into court anything for the reasonable hire of said slaves for the long period elapsed since said alleged sale. The said bill is defective for want of proper parties. There is no showing that the said note, on which these defendants obtained said judgment, was given for or on account of said slaves, or any of them. If the matters of said bill are true, complainants are entitled in no event to enjoin more than a part of said judgment.

Wherefore, and for divers other good causes of demurrer appearing in the said bill, these defendants do demur thereto, and they pray the judgment of this honorable court, whether they or either of them shall be compelled to make any further or other answer to the said bill, and they pray to be hence dismissed with their reasonable costs in this behalf sustained.

VAN WINKLE & POTTER,
Solicitors for Defendants.

We certify, that the foregoing demurrer is in our opinion well formed in point of law.

VAN WINKLE & POTTER,
Counsel for Defendants.

Geo. L. Potter, on behalf of the above named defendants, on oath states, that the foregoing demurrer is not interposed for delay.

GEO. L. POTTER.

Sworn to and subscribed before me, this 1st day of May, 1847.

W. H. BROWN,
U. S. Comm'r.

And afterwards, to wit, at the May rules, to wit, on the first Monday of May, in the year of our Lord one thousand eight hundred and forty-seven, this cause was set for hearing on the demurrer of the defendants to the complainants' bill filed herein.

And afterwards, to wit, at the November Term of the court aforesaid, to wit, on the thirteenth day of November, in the year of our Lord one thousand eight hundred and forty-seven, the following order was entered on the minutes of said court in the words and figures following, to wit:

B. R. Truly et al.
vs. } 155. Chancery.
Wanzer and Harrison.

Argued and submitted at May Term, 1847. Ordered by the court, that the demurrer to bill be overruled, cause remanded to the rules, and ninety days allowed to defendants to file their answer.

And afterwards, to wit, on the 24th day of February, 1848, the defendants, by Van Winkle & Potter, their solicitors, filed their answer to complainants' bill in the words and figures following, to wit:

United States of America,
Southern District of Mississippi:

Circuit Court of the United States, Ninth Judicial Circuit. In Chancery.

The joint and separate answer of Moses Wanzer and Jabez Harrison, sued as partners under the name of Wanzer & Harrison, to the bill of complaint of Bennet R. Truly and John H. Truly, complainants.

These defendants, reserving to themselves all right of exception to the said bill of complaint for answer to so much thereof as they are advised to answer, answering each for himself, say:

They did obtain a judgment at law in this court for a large sum of money, against the said John R. Hubert and others; and thereafter, upon the same, sued out process of garnishment against the said Bennet R. Truly and another to the May term, A. D. 1839, of this court, and such proceedings were thereupon had that, at the November term, A. D. 1839, of this court, judgment was rendered by this court in favor of these respondents against the said Bennet R. Truly for the sum of $3,575 and costs—which said judgment was so rendered against the said Bennet R. Truly, upon his answer as such garnishee, upon the said proceedings, and in which said answer he, the said Bennet R. ——, answered and admitted among other things, that he executed to the said John R. Hubert a promissory note, dated the first day of February, in the year 1837, for the sum of $3,575, payable to A. W. Robinson twelve months after date at the banking house of the Mississippi and Alabama Railroad Company at Brandon, with ten per cent. interest thereon from the time it became due until paid; and thereby further admitted that said note was endorsed by said Robinson to William O. Aldridge, and by said Aldridge to the said John R. Hubert as by the

records of said proceedings, to which for greater certainty these respondents refer, will more fully appear.

Respondents further say, that, upon the said judgment so rendered against the said Bennet R., a writ of *fieri facias* was issued returnable to the May term, A. D. 1840, of this court, and was levied on certain Negro slaves belonging to the said Bennet R., and that a forthcoming bond for the delivery of said slaves was thereupon given by the said Bennet R., with said John H. Truly as his security; which said bond was forfeited on the 4th day of May, in the year 1840, and was then so returned by the marshall of said district into this court, as by the record thereof, to which respondents for greater certainty refer, will more fully appear.

Which said bond so being forfeited and returned, has, as respondents are advised, the force and effect of a judgment, and these respondents plead and rely upon the said proceedings, the said judgment in garnishment and the said bond, so as aforesaid given, forfeited and returned, and the judgment thereon, as a bar to all the discovery, and relief sought and prayed by the complainants in and by their said bill against these respondents. And these respondents submit that the matters set forth on the said bill constitute no excuse for the failure of said complainants to deliver said slaves pursuant to the condition of said forthcoming bond, and are no ground of equity against these respondents.

And further, these respondents admit that the said Bennet R. did, before any execution was issued upon said forfeited bond, file his bill in this court for an injunction against said judgment upon the grounds set forth by the said complainants in that particular in their said bill; that a general demurrer was filed to the said bill of the said Bennet R., and that, at the May term 1844 of this court, the said demurrer was sustained, the injunction dissolved, and the said bill dismissed by the decree of this court; and that said decree was, upon appeal, affirmed, as alleged by the said complainants, in their said bill. And these respondents plead and rely upon the said decree so affirmed as a bar to all discovery and relief sought and prayed by the said Bennet R. in and by the said bill of the said complainants, and also as a bar to all discovery and relief sought and prayed for by the said complainants in their said bill, and respondents aver that said Bennet R. and John H. Truly executed and are liable to these respondents upon both the injunction bond and the appeal bond in said suit so brought to enjoin said judgment.

Respondents suppose that said Bennet R. did mainly rely in his said bill upon the alleged illegal consideration of said pretended notes answered by complainants; but respondents submit that the second point resting upon the pretended claims of the pretended heirs of Nicholson being stated in said bill, was necessarily considered of by the court in deciding upon said demurrer, and that the legal effect of that decree is the same as if rendered after full argument upon said second point. And further, respondents admit that, since the affirmance of said decree, a writ of *fieri facias* has

been issued upon said judgment on said forfeited bond, and levied, as by the said complainants alleged in their said bill. These respondents, except so far as they are informed by the said bill, are not informed and know nothing of the said alleged purchase by the said Bennet R. of said pretended slaves called Sam, Si, Alexander, Mary, and Peter, or any of them from said John R. Hubert, nor whether or not said John R. Nicholson brought the said pretended slaves, or any of them, into this State, or sold any of them to said Hubert, as alleged in said bill, by complainants or otherwise, nor anything of either of said pretended notes described by said complainants in their said bill, nor of the consideration of, nor whether any interest was included in the amount of either of said pretended notes, nor of the said alleged bill of sale, nor whether or not, if it ever existed, it is lost or mislaid, nor of said alleged warranty, nor have they any information on which to found a belief as to any of said alleged matters. But these respondents insist, that neither of the said pretended notes described by said complainants in their said bill, is the note described by the said Bennet R. in his answer, as garnishee, and for which said judgment was rendered against him, of which said last mentioned note these respondents know nothing, either as to the consideration thereof or otherwise, and have no information on which to found a belief, except what is set forth in relation thereto in said answer, and they submit that complainants cannot be heard to deny or charge the statements and admission made by the said Bennet R. in his said answer. Indeed, these respondents know nothing of the existence at any time, of any of said alleged notes, or of any of said pretended slaves last mentioned, or of said alleged bill of sale, and admit nothing in any particular in relation thereto. Respondents know nothing of the information or means of knowledge had by said Bennet R. at the time he gave said bond in relation to the said pretended title to said pretended slaves last mentioned or any of them, nor whether or not he had time or occasion to go in search of the facts in relation thereto or know where to go or to whom to apply on that behalf, nor whether or not said Herbert and Nicholson, or either of them, had then left the country, nor have they any information on which to found a belief as to these matters, except that they suppose the facts might have been ascertained from said Hubert and said John R. Nicholson. And further answering, respondents admit that bills were filed in the Superior Court of Chancery of the State of Mississippi, at the times, by the parties claiming to be heirs, &c., and against the parties, and for the purpose, and upon the allegation as stated by complainants in their said bill, and also that proceedings have been had thereon, as alleged by complainants; but respondents know nothing of the truth of, nor do they admit any of the allegations in any of said bills, nor do they know whether or not any of said suits have been duly or vigorously prosecuted, and they submit that the said Bennet R. and those claiming under him, long since acquired full title, by possession under the laws of

Mississippi, of said alleged slaves last mentioned as against the claims made by said alleged heirs and all other persons, if the facts be, as stated by the said Bennet R. and John H. Truly in their said bill, and that, if a recovery be had by any of said alleged heirs in any of said suits, it will be obtained through laches or collusions, and respondents protest against being in any manner held bound by any such recovery, especially inasmuch as these respondents are informed and charged that the said complainants are desirous and attempting collusively to defeat the recovery of the amount of said judgment in favor of your respondents, by means of said pretended claims of said alleged heirs of Nicholson, and otherwise. Respondents know nothing, and have no information (except from the statement of said bills) of any of said alleged sales of said pretended slave called Mary or Polly. They admit that said Hubert died insolvent, and that said John R. Nicholson is dead; but they know not whether or not he died solvent or insolvent, nor do they know when either of them died; and further, respondents are not informed (except by said bill), and know nothing of what said Bennet R. agreed to pay for said pretended slaves, or whether he ever purchased them, nor what, if anything, he has paid for or on account of said pretended slaves, or any of them.

For answer to the interrogatories in the bill of said complainants, addressed to these respondents, they refer to the matters aforestated in this their said answer, instead of repeating the same in response to said interrogatories, and having answered they pray that said injunction be dissolved, the said bill be dismissed with costs, &c.

MOSES WANZER.
J. HARRISON.

STATE OF NEW YORK.
City and County of New York, ss:

Be it remembered that on this tenth day of February, in the year of our Lord eighteen hundred and forty-eight, before me, the subscriber, a commissioner in said State, appointed by the Governor of the State of Mississippi, to administer oaths and affirmations, and to take depositions, affidavits, and the proof and acknowledgment of deeds, &c., to be used or recorded in the said State of Mississippi, and duly commissioned and sworn, and dwelling in the City of New York, personally appeared the above named Moses Wanzer, and Jabez Harrison, who being by me duly sworn did depose and say, that they have respectively read the foregoing joint and separate answer by them respectively subscribed and that they know the contents thereof, and that the same is true of their own knowledge except as to the matters which are therein stated to be upon their information or belief, and as to those matters they respectively believe it to be true.

In testimony whereof, I, Charles I. Bushnell, commissioner as

Hubert, nor whether or not said John R. Nicholson brought said pretended slaves, or any of them, into this State, or sold any of them to said Hubert, as alleged in said bill by complainants, or otherwise, nor anything of either of said pretended notes described by said complainants in their said bill, nor of the consideration of, nor whether any interest was included in the amount of either of said pretended notes, nor of the said alleged bill of sale, nor whether or not if it ever existed it is lost or mislaid, nor of said alleged warranty; nor have they any information on which to found a belief as to any of said alleged matters. But these respondents insist that neither of the said pretended notes described by said complainants in their said bill, is the note described by the said Bennet R. in his answer as garnishee, and for which said judgment was rendered against him, of which said last mentioned note these respondents know nothing, either as to the consideration therefore or otherwise, and have no information on which to found a belief, except what is set forth in relation thereto in said answer, and they submit, that complainants cannot now be heard to deny or change the statements and admissions made by the said Bennet R. in his said answer. Indeed, these respondents know nothing of the existence at any time of any of said alleged notes, nor of any of said pretended slaves last mentioned, or of said alleged bill of sale, and admit nothing in any particular in relation thereto. Respondents know nothing of the information or means of knowledge had by said Bennet R. at the time he gave said bond in relation to the said pretended title to said pretended slaves last mentioned, or any of them, nor whether or not he had time or occasion to go in search of the facts in relation thereto, or know where to go, or to whom to apply on that behalf, nor whether or not said Herbert and Nicholson, or either of them had then left the country, nor have they any information on which to found a belief as to these matters, except that they suppose the facts might have been ascertained from said Hubert, or said John R. Nicholson. And further answering, respondents admit that bills were filed in the Superior Court of Chancery of the State of Mississippi at the time by the parties claiming to be heirs, &c., and against the parties and for the purposes, and upon the allegations as stated by complainants in their said bill, and also that proceedings have been had thereon as alleged by complainants; but respondents know nothing of the truth of, nor do they admit any of the allegations in any of said bills, nor do they know whether or not any of said suits have been duly and vigorously prosecuted, and they submit that the said Bennet R. and those claiming under him, long since acquired full title by possession under the laws of Mississippi, of said alleged slaves last mentioned, as against the claims made by said alleged heirs and all other persons, if the facts be as stated by the said Bennet R. and John H. Truly in their said bill, and that if a recovery be had by any of said alleged heirs in any of said suits, it will be obtained through laches or col-

1847.

lusions, and respondents protest against being in any manner held bound by any such recovery, especially inasmuch as these respondents are informed, and charge that the said complainants are desirous and attempting, collusively, to defeat the recovery of the amount of said judgments in favor of your respondents, by means of said pretended claims of said alleged heirs of Nicholson and otherwise.

Respondents know nothing and have no information except from the statements of said bills, of any of said alleged sales of said pretended slave called Mary or Polly. They admit that said Hubert died insolvent, and that said John R. Nicholson is dead, but they know not whether or not he died solvent or insolvent; nor do they know when either of them died. And further respondents are not informed, except by said bill, and know nothing of what said Bennet R. agreed to pay for said pretended slaves, or whether he ever purchased them, nor what, if anything, he has paid for or on account of said pretended slaves, or any of them.

For answer to the interrogatories in the bill of said complainants, addressed to these respondents, they refer to the matters afore stated in this their said answer, instead of repeating the same in response to said interrogatories; and having answered, they pray that said injunction be dissolved, and the said bill be dismissed with costs, &c.

MOSES WANZER,
J. HARRISON.

UNITED STATES OF AMERICA,
Southern District of New York, ss.

On the seventeenth day of March, A. D. 1848, before me, George W. Morton, U. S. Commissioner, personally appeared Moses Wanzer and Jabez Harrison, who, being duly sworn, did depose and say, and each for himself saith, that he had read the foregoing answer and subscribed the same, and that the same was true of his own knowledge, except as to the matters therein stated to be on his information and belief, he believed it to be true.

GEO. W. MORTON,
U. S. Commissioner.

UNITED STATES OF AMERICA,
Southern District of New York, ss.

I, Alexander Gardiner, Clerk of the Circuit Court of the United States of America for the Southern District of New York, Second Circuit, do hereby certify that I am well acquainted with the handwriting of George W. Morton, whose name is subscribed to the annexed jurata to the answer of Wanzer & Harrison, and that the signature to the same is in his proper handwriting. And I do further certify, that he was at the time of signing the same, a commissioner duly appointed by the Circuit Court of the United States of

America for the Southern District of New York, under and by virtue of the Act of Congress in such case made and provided.

In testimony whereof, I have hereunto subscribed my name and affixed the seal of the said Circuit Court, this seventeenth day of March, in the year of our Lord one thousand eight hundred and forty-eight, and of the Independence of these United States the seventy-second.

[L. S.]

ALEX. GARDINER,
Clerk.

And afterwards, to wit, on the 1st day of May, A. D. 1848, the following motion was filed by complainants in this cause in the words and figures to wit:

Motion by complainants for leave to file a supplemental bill in this cause.

And afterwards, to wit, at the May Term of the court aforesaid to wit, on the 12th day of May, in the year of our Lord one thousand eight hundred and forty-eight, the following order was entered upon the minutes of said court in the words and figures to wit:

B. R. TRULY
vs.
WANZER and HARRISON.

Supplement bill filed by complainants by leave of court. And on motion, defendants allowed until the next Term to file answer.

(*Supplemental Bill.*)

UNITED STATES OF AMERICA.

In the Circuit Court of the United States for the Southern District of Mississippi. In Chancery, May term, 1848.

To the Honorable the Judges of the Circuit Court of the United States, in Chancery.

John H. Truly and Bennet R. Truly, who are citizens of the State of Mississippi, and residents of the Southern District thereof, state unto your honors, by way of supplement to the bill heretofore brought by them in your Honors' Court, against Moses Wanzer and Jabez Harrison, who are citizens of the State of New York, that lately, to wit, at the December term of the Superior Court of Chancery of the State of Mississippi, held at Jackson, in said State, on the 9th day of December, 1847, one Ira Nicholson, who had before that time instituted his suit in said court against your orators, to recover of them the negro man "Si," or Josiah, as is more fully set forth in your orators' original bill, to which this is a supplement, by the consideration and judgment of said Superior Court of Chancery, in his favor obtained a final decree of said court, adjudging and declaring that said negro man slave, Josiah, sometimes called "Si," mentioned

in his bill, of right belonged to said Ira Nicholson, and directing your orators to deliver said negro slave to him. And your orators further charge and state, that at a subsequent day of the term of said Superior Court of Chancery, upon the report of L. V. Dixon, commissioner of said court, it was certified to, and ascertained by said court, that your orator, Bennet R. Truly, was indebted to said Ira Nicholson for the hire of said negro, in the sum of three hundred and eight $\frac{33}{100}$ dollars; and that the said John H. Truly was indebted to said Ira Nicholson, for the hire of the same negro, the sum of eight hundred dollars, at the date of said report, respectively, which was on the 12th day of February, eighteen hundred and forty-eight, on which day said court rendered a decree against your orators therefor.

And your orators further state unto your honors, that when the said Ira Nicholson instituted his suit for the recovery of said slave, your orator John H. was required to give bond and security to have him forthcoming, &c., and gave Kinsman Divine, to whom he delivered the man Si, or Josiah as indemnity, Divine hired him out, and your orators are informed, that although the complainant has not got manual possession of the negro, he is aware of the situation his is placed in, and has agreed to look to the hirer, and is considered as in his possession, by virtue of said decree, and he is to receive the hire. Your orators have no further control of him, and are no longer looked to for him, and would be justified in saying, they have delivered him conformably to said decree. And they further state unto your honors, that on the 24th day of March, 1848, the said Ira Nicholson sued out from the said Superior Court of Chancery, a writ of *fieri facias* against your orators, directed to the Sheriff of Madison County in said State, for the amounts of said decree, for hire and for costs; and the Sheriff proceeded to levy the same on eight negro slaves, the property of your orator, John H., your orators thereupon proceeded to negotiate with the agent of the complainant, in relation to said hire, who alternately agreed to receive of your orators four negro slaves, named Ralph, Sarah, Ellen and Washington, in full discharge of said decree for hire in this case, as well as in that in favor of Sarah C. Nicholson, as your orator will hereinafter state, upon your orators paying in addition the costs of the *fi. fa.*, which amounted to more than fifty-five dollars, on which your orators paid fifty dollars, and are liable for the balance. Said negro slaves were thereupon sold and delivered over to said agent, in pursuance of said agreement, by said Sheriff. All which statements connected with said final decree, report, writ of *fi. fa.*, levy of the same and payments thereon, being of record in the said Superior Court of Chancery, and will be produced on the final hearing of this cause if required or necessary.

And your orators further state unto your honors that lately, also in said Superior Court of Chancery, at the December Term thereof, in the year 1847, one Sarah C. Nicholson, who had before that time

instituted her suit in said court against your orators and others, to recover of your orators the negro man slave named Alek or Alexander, as is more fully set forth in your orators' said original bill in this court, obtained the final decree of said Superior Court of Chancery, in her favor, adjudging and agreeing that said negro man slave named Alec or Alexander was the property and of right belonged to the said Sarah C. Nicholson, and directing your orators to deliver said negro man slave to her, upon the service of a copy of said decree.

And further ordering, adjudging and decreeing, that your orator Bennet R. should pay to said Sarah the sum of three hundred and eighty-five dollars, to carry interest at 6 per cent. from the date of said decree, for the hire of said negro man slave, and further ordering, adjudging and decreeing, that the complainant said Sarah recover of your orator John H. the sum of one thousand dollars, for the hire of said negro man with interest at 6 per cent. from the date of said decree, and that your orators pay the costs of the suit, for all which execution was awarded. All which appears of record in said Superior Court of Chancery. The date of said decree was the 14th day of February, 1848.

And your orators further state unto your honors that your orator John H. having occasion to sell some negroes, including the wife and children of said negro man Alexander, in order to avoid separating the family also sold said boy Alexander, and at the date of said decree held the note of the purchaser for a sum exceeding the probable value of said boy. Since that time he has transferred said note to the agent of the said Sarah C., who, as your orators have been informed and believe, has been in communication with said purchaser about said boy Alexander, which, as your orators are informed, is likely to result in an agreement, either that said boy Alexander shall be delivered to said agent, or the present possessor of him will pay on said note the fair and reasonable value of the said boy. Your orators state that the course they have pursued is satisfactory to said agent. And they, therefore consider that they have substantially complied with said decree so far as the same directed them to deliver him up. The agent looking to the vender of said John H. for the boy or his value.

And your orators further state unto your honors that the said Sarah C. Nicholson, on the 24th day of March, 1848, sued out a writ of fieri facias for the hire, for which she had obtained said decree as aforesaid against your orators, and placed the same in the hands of the sheriff of the said County of Madison, who levied the same on eight negro slaves, the property of your orator John H.

Your orators entered upon a negotiation with J. J. Lamar, the agent of said Sarah C. who finally agreed (being also the agent of said Ira Nicholson) to receive the four negro slaves herein before named, in full payment of the decree aforesaid, for hire, both in

the case of said Sarah C. and said Ira, and said negroes were thereupon sold by the sheriff and delivered over to said agent in pursuance of said agreement. And your orators paid to said sheriff forty-five dollars and forty-five cents towards the costs, and are able to pay and expect in few days to pay the balance.

Your orators conceive it not inappropriate to the occasion to state, that said agent being made aware, that your orators had already paid more than the value of the negroes, and would be very seriously injured by the transaction, even though they sustained their application for relief in your honors' court, consented to take said negroes at a high valuation, or to abate something of the amount of said decree, it being considered that said negroes were not in strictness worth perhaps more than two thousand dollars.

Your orators, in consideration of the premises, pray your *orators* for leave to file this as a supplement to their said original bill; that said Wanzer & Harrison may be made defendants thereto, and on their several corporeal oaths, true, full, and perfect answers make to all and singular the allegations thereof, as fully and particularly as if the same were here again repeated, and they thereto particularly interrogated, and especially that they answer and say:

1. Whether the said Ira and Sarah C. Nicholson, did not obtain respectively a final decree against your orators, in the said Superior Court of Chancery, at the time stated for said negroes, Si or Josiah, and Alexander, and for their hire respectively as herein set forth.

2. Did they not as herein stated sue out writs of *fieri facias* for the amount of said hire, and the costs in each case; and have your orators paid and satisfied the same after levy, in the manner herein stated, both as to decree and costs?

3. Have your orators not in effect surrendered said negroes pursuant to said decrees in the manner herein stated?

And your orators pray for such relief as in and by their said original bill, they have prayed for, and for such other and further or different relief as may be suited to the nature and hardship of their case and conformable to equity, and as in duty bound, they will ever pray, &c.

Note: The defendants are required to answer special interrogatories, Nos. 1, 2, and 3.

MAYES, CLIFTON & MAYES,
Solicitors for Complainants.

UNITED STATES OF AMERICA,
Southern District of Mississippi:

Circuit Court to May Term, 1848, Chancery side.

Personally appeared before me, the undersigned Commissioner of Affidavits, duly appointed, &c., by the Circuit Court of the United States for the Southern District of Mississippi; John H. Truly, one

of the complainants in the within and foregoing bill, or supplemental bill to and already filed in said court; wherein John H. Truly, and B. R. Truly are complainants, and Wanzer & Harrison defendants; who being by me duly sworn, deposeth and says: that the matters and things set forth in said supplemental bill from his own knowledge, he knows to be true, and those from the information of others he believes to be true.

JOHN H. TRULY.

Sworn and subscribed before me, on the 27th day of April, A. D. 1848.

THOS. SHAKLEFORD.
U. S. Com. Southern Dis. Mississippi.

UNITED STATES OF AMERICA,
Southern District of Mississippi:

Circuit Court to May Term, 1848. In Chancery.

Personally appeared before me the undersigned Commissioner of affidavits, for the Circuit of the United States for the Southern District of Mississippi: Bennet R. Truly, one of the complainants in the within and foregoing supplemental bill to amend a bill already filed in said court, wherein John H. Truly and Bennet R. Truly are complainants, and Wanzer & Harrison are defendants, who being by me duly sworn, deposeth and says, that the matters and things set forth in the said supplemental bill, from his own knowledge, he knows to be true, and those from the information of others he believes to be true.

B. R. TRULY.

Sworn to and subscribed before me, on the 28th day of April, 1848.

THOMAS SHAKLEFORD,
U. S. Com. &c., Southern Dis. Mississippi.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

In the Circuit Court, United States, Ninth Judicial Circuit. In Chancery.

The joint and separate answer of Moses Wanzer and Jabez Harrison sued as partners under the name of Wanzer & Harrison, to the supplemental bill of complaint of Bennet R. Truly and John H. Truly complainants.

These defendants reserving to themselves all right of exception to the said supplemental bill, and insisting and relying upon all the matters set up and relied on in their answer to the original bill in this cause, for answer to so much of the said supplemental bill as they are advised to answer, answering each for himself, say:—

They know nothing of any such recovery as is alleged in said supplemental bill, and cannot answer whether or not said Ira Nicholson and Sarah Nicholson obtained any such final decree or decrees, as alleged in said supplemental bill. And these defendants insist upon strict proof of all allegations in that particular. These defendants, upon their belief, charge, that if any such decree was obtained either by the said Ira or the said Sarah, the same was procured by collusion with the said complainants, Bennet R. and John H. Truly; and these defendants deny that said decrees, if they exist, are in any way obligatory upon them.

These defendants know nothing of the issuance of any writs for the amount of any hire or costs, nor of any payment or satisfaction of the same, after levy or otherwise, as alleged in said supplemental bill, and call for strict proof of all allegations in that particular. Upon their belief they charge, that if there was, apparently, any such payment or satisfaction, the same was collusive.

These defendants know nothing of any surrender of said slaves or either of them, as alleged in said bill, either directly, in effect, or otherwise, and call for proof.

These defendants know nothing of any of the matters set forth in the said supplemental bill, and have no information concerning any of said matters except from the statement of said bill. They insist they are not in any manner bound by any of said matters, nor in any particular precluded thereby.

They insist that said Superior Court of Chancery had no jurisdiction upon any of the matters of said decree if rendered, and that it was the mere folly of said complainants in submitting, if such were the fact, to any such decree.

These defendants again insist and rely upon all the matters and allegations in bar or otherwise, in their said original answer contained or relied on as well in defence against the said supplemental bill as said original bill, and pray hence to be dismissed that said injunction be dissolved with costs, &c.

MOSES WANZER,
J. HARRISON.

VAN WINKLE AND POTTER,
Solicitors for Defendants.

SOUTHERN DISTRICT OF NEW YORK, ss:

On this sixteenth day of September, 1848, before me appeared Moses Wanzer and Jabez Harrison, who being by me duly sworn, did depose and say, and each for himself said, that he had read the foregoing answer by him subscribed, and knew the contents thereof, and that the same was true as of his own knowledge, except as to the matters therein stated to be on his information and belief, and as to those matters he believes it to be true.

GEO. W. MORTON,
U. S. Commissioner.

UNITED STATES OF AMERICA,
Southern District of New York, ss:

I, Alexander Gardiner, Clerk of the Circuit Court of the United States of America, for the Southern District of New York, Second Circuit, do hereby certify, that I am well acquainted with the handwriting of George W. Morton, whose name is subscribed to the annexed jurata, and that the signature to the same is in his proper handwriting. And I do further certify, that he was at the time of signing the same a commissioner duly appointed by the Circuit Court of the United States of America for the Southern District of New York.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said Circuit Court this sixteenth day of September, in the year of our Lord one thousand eight hundred and forty-eight, and of the independence of these United States the seventy-third.

[L. S.] ALEX. GARDINER.

Replication, filed November 8, 1848.

These replicants saving and reserving to themselves all and all manner of advantage of exception to the manifold insufficiencies of the said answer of the said defendants in this behalf; for replication thereunto, say, that they will aver and prove their said bills and supplemental bill, to be true, certain and sufficient in the law to be answered unto, and that the said answers of the said defendant are uncertain, untrue and insufficient to be replied unto by these repliants; without this that any other matter or thing whatsoever in the said answers contained, material or effectual in the law to be replied unto, confessed and avoided, traversed or denied, is true. All which matters and things these repliants are ready and will be ready to aver and prove as this honorable court shall direct, and humbly pray as in and by their said bill they have already prayed.

MAYES, CLIFTON & MAYES,
Solicitors for Repliants.

And afterwards, to wit, on the 7th day of November, 1848, the following motion was filed by complainants in the words and figures to wit:

B. R. TRULY *et al.*
vs.
WANZER AND HARRISON. } No. 155. In Chancery.

The complainants move to take from the file the answer of the defendants to their supplemental bill for the reason that the defendants have omitted to answer the special interrogatories Nos. 1, 2,

and 3, in said bill as by memorandum thereto annexed, they were required to do.

MAYES & CLIFTON,
Solicitors for Complainants.

And upon the calling of said motion, complainants, by Solicitors by consent of parties, withdrew the same.

And afterwards, to wit, at the May Term, A. D. 1849, of the court aforesaid, to wit, on the 16th day of May, in the year of our Lord one thousand eight hundred and forty-nine, the following motion and order was made and entered on the minutes in the words and figures to wit:

The complainants move the court, that the time for taking testimony in this cause, be enlarged to 120 days from the adjournment of this court, under rule sixty-seven, except that it shall be sufficient if the same be taken before a judge or a justice of the State, within which the same may be taken.

Ordered by the court, that the motion be sustained.

Replication, filed August 20, 1849.

The replication of the complainants to the answer of the defendants.

These repliants saving and reserving to themselves all manner of advantage of exception to the insufficiencies of said answers, for replication thereunto, say, that they will aver and prove their said bill to be true, certain and sufficient in the law, to be answered unto, and that the said answers of the said defendants, are uncertain, untrue and insufficient to be replied unto by these repliants. Without this that any other matter or thing whatsoever in the said answer contained material or effectual in the law to be replied unto, confessed or avoided, traversed or denied is true. All which matters and things these repliants are and will be ready to aver and prove as this honorable court shall direct; and humbly pray as in and by their said bill they have already prayed.

MAYES & CLIFTON,
Solicitors for Complainants.

And afterwards, to wit, at the May Rules, 1850, came the defendants by their solicitors, and set this cause for hearing on the bills, answers, and the proofs, &c. &c.

And afterwards, to wit, on the sixteenth day of May, 1850, came the defendants aforesaid by their solicitor George L. Potter, and entered the following motion in said court in the words and figures to wit:

Motion by defendants to suppress the deposition of Sarah N. Hubert because the same was taken, ex parte, after complainants had filed interrogatories to take the same, and defendants had filed

cross-interrogatories thereto, and because the same is not taken and duly certified according to law, &c.

Filed May 16th, 1850.

And afterwards to wit, at the May Term, A. D. 1850, of the court aforesaid, to wit, on the twenty-first day of May, in the year of our Lord one thousand eight hundred and fifty, came the parties aforesaid by their respective solicitors and the foregoing motion, to suppress the deposition of Sarah N. Hubert, being fully argued and heard, and now understood by the court.

It is ordered, that the same be sustained, and on application of complainants, it is further ordered that the cause be continued and that complainants have leave to retake said depositions, on interrogatories and notice thereof to defendants, and the commission to issue to Sidney M. Orton, of the County of Nacogdoches, Texas.

And afterwards, to wit, on the 12th of November, A. D. 1850, came the defendants by their solicitor, George L. Potter, and move the court to suppress the deposition of Sarah N. Hubert, filed since the last term, for these reasons, to wit:

1st. Witness does not make full answer to cross-interrogatories, nor any answer to a part of them.

2d. Witness shows that she testifies from a memorandum which she does not produce and annex to her deposition as required by defendants, in their cross-interrogatories.

3d. Witness shows, that she testifies in part from the statements of one of complainants, and does not show what the statements are, that she makes upon such information.

4th. Witness does not speak from knowledge or present recollection.

5th. Witness derived her information from her late husband, and she cannot be heard to testify to such declarations, such evidence is inadmissible, and witness incompetent to testify to such declarations.

6th. There are other reasons to be assigned on hearing of the motion.

GEORGE L. POTTER,
Solicitor for Defendants.

And afterwards, to wit, at the November Term, of the court aforesaid, to wit, on the fifteenth day of November, A. D. 1850, the following order was entered upon the minutes of said court in this cause in the words and figures, to wit:

Motion to suppress the deposition of Sarah N. Hubert, ordered by the court that the motion be sustained. On motion of complainants, leave is given them to retake said deposition upon giving legal notice of the time and place, &c. It is further ordered by the court, that the complainants have leave to take from the file the deposition of Sarah N. Hubert, first taken in the cause.

And afterwards, to wit, at the May term of the court aforesaid, to wit, on the 5th day of May, A. D. 1851, the following order was entered upon the minutes of said court in this cause, in the words and figures to wit:—

On motion, it is ordered by the court, that William H. Brown and Leonidas V. Dixon, or either of them, be appointed to take testimony in this cause on behalf of the complainants, or interrogatories and cross-interrogatories heretofore filed.

And afterwards, to wit, at the May Term of the court aforesaid, to wit, on the 9th day of May, A. D. 1851, the following order was entered on the minutes of said court, in this cause, in the words and figures, to wit:—

Motion to remand this cause to the rules, and for leave to file supplemental bill on statement of C. R. Clifton. Ordered by the court that the motion be sustained.

Supplemental bill, filed May 9, 1851.

To the Honorable the Judges of the Circuit Court of the United States for said District.

John H. Truly and Bennet R. Truly, by way of supplement to the bill heretofore brought by them, in your honors' court, against Moses Wanzer and Jabez Harrison, seeking the relief therein prayed for, upon the grounds therein stated and set forth, now state to your honors, that on the 19th day of January, A. D. 1850, being a day of the December term of the Superior Court of Chancery, at Jackson in said State, by a decree of the chancellor, rendered on that day, and duly enrolled in the case of Isaac E. Nicholson and others, against Samuel B. Sheldon and others, referred to in their original bill, in this behalf it was adjudged and decreed, that the negro girl Polly, being the same mentioned in the original bill of your orators, was the property of said James Nicholson, deceased, at the time of his death, and of right descended and belonged to the complainants with her increase, since that time, and that she should be sold with said increase, to effect a division, as is more fully and at large set forth in said record, proceedings and decree, a duly certified copy of which is herewith filed, and prayed to be taken and considered as part of this supplement.

And your orators further state unto your honors, that William S. Baily, appointed by said decree, to make sale of said slaves, Polly and her increase, has performed that duty by selling her at public outcry, for, as your orators are informed, upwards one thousand seven hundred dollars.

And further, that Wm. McBride, Esq., the agent and attorney of said Sheldon, has notified your orators, that said Sheldon will look to them, and hold them responsible for the value of said slaves, as his vender or venders, and damages.

Your orators pray that said Wanzer & Harrison, answer this supplemental bill, and your orators pray for the relief they have

prayed for in and by their original bill; and as in duty bound, will ever pray, &c.

B. R. TRULY
and J. H. TRULY,
Complainants.

CLIFTON,
Sol. for Compl'ts.

CIRCUIT COURT UNITED STATES,
Southern District of Mississippi.

Personally appeared before me, L. V. Dixon, a commissioner of said court, B. R. Truly, one of the complainants named in the within supplemental bill, who being duly sworn, deposeth and saith, that the matters stated in said bill as of his own knowledge are true, and those stated as upon information derived from others, he believes to be true.

B. R. TRULY.

Sworn to and subscribed before me, April 5th, 1851.

L. V. DIXON,
Com. &c.

(*Copy of the record, proceedings and decree reported to State of Mississippi.*)

ISAAC E. NICHOLSON *& al.*
vs. } No. 3430.
SAMUEL B. SHELDON *et al.*

Pleas before the Honorable Stephen Cocke, Chancellor of the State of Mississippi, at a Superior Court of Chancery of said State, continued and held at the Court Room in the city of Jackson, on the 19th day of January, A. D. 1850.

Be it remembered, that heretofore, to wit, on the 16th day of May, in the year of our Lord one thousand eight hundred and forty-five, came the said complainants, Isaac E. Nicholson and others, by their solicitor, and filed in the clerk's office of said county, their certain bill of complaint against the said defendants, Samuel B. Sheldon and others, and procured process to be issued thereon, which said bill and process is in the words and figures following, to wit:—

(*Bill.*)

To the Honorable Robert H. Buckner, Chancellor for the State of Mississippi, and of the Superior Court of Chancery at Jackson.

Your orators and oratrixes humbly complaining, would respectfully represent unto you honor, that Evan Nicholson, departed this life sometime prior to the year 1835, and left your orator and oratrixes, together with John R. Nicholson, James Nicholson, and the

wife of Nelson Harlin, as his lawful children; that said Evan Nicholson, at the time of his death was the owner of a considerable negro property; that he died intestate; that administration was granted upon his estate to Lewis Cunningham, in St. Clair County, in the State of Alabama; that sometime after administration granted as aforesaid, John R. Nicholson and Nelson Harlin, in right of his wife, citizens of the State of Arkansas, who are prayed to be made defendants to this bill, made application to the County Court of St. Clair County aforesaid, 5th November, 1835, for a division of said negro property amongst the heirs of said Evan Nicholson, deceased, which application was then and there granted, and said negro property ordered to be divided, which was accordingly done. James Nicholson being a minor, John R. Nicholson, who was appointed his guardian, received the negro allotted to his ward James, upon the division aforesaid, to wit, Polly, all of which will more fully appear by reference to Exhibit A, a more perfect copy of which record is prayed to be filed in lieu as soon as the same can be obtained. Your orator would further represent, that said John R. Nicholson, without any authority whatever, and to deprive and defraud said James Nicholson of his said negro Polly and her increase, secretly conveyed said negro out of the limits of the State of Alabama. Your orator and oratrixes would represent unto your honor, that said James Nicholson, whilst a minor as aforesaid, departed this life sometime in the year 1840, owing no debt or sum of money, or any other duty which is chargeable upon his property, and no administration was ever granted on the estate of said decedent, and died intestate, leaving his property to descend according to law to your orators and oratrixes, and said John R. Nicholson and said Nelson Harlin and wife in equal parts, there being no creditor: that is to say, said negro descended to all the children of said Evan, alive at the time of the death of said James Nicholson, to wit: Isaac E. Nicholson, Martha Nicholson, William Nicholson, Ira Nicholson, Sarah C. Nicholson, now of full age, and David E. L. Nicholson, Mary Nicholson, and Warren P. Nicholson, who are minors, and sue by their next friend, Isaac E. Nicholson, your orators and oratrixes, and John R. Nicholson and Nelson Harlin in right of his wife, who are made defendants to this bill; that is to say, there being ten brothers and sisters of said James Nicholson, said negro Polly descended in ten equal parts, each of your orators and oratrixes owning one-tenth of said negro with her increase. Your orators and oratrixes would further represent, that said negro slave is now in the possession of Samuel B. Sheldon, of Madison County, Mississippi, with her increase, who has said negro now advertised for sale, and is trying to sell her and her increase, every opportunity that he has to effect, and will do so unless he be restrained by your honor from so doing, and said negro will thus become wholly lost to your orators and oratrixes, and be removed beyond the jurisdiction of this honorable court.

At a special term of the Orphans' Court begun and held for the county of St. Clair, at the court-house in the town of Ashville, on Wednesday the 30th day of September, in the year of our Lord 1835, present the Honorable James Rogan, Judge: This day, personally in open court, James Lamar, the present husband of Sally Lamar, and the said Salla Lamar, in person, who was the widow of the late Evan Nicholson, and the said Sally, with the consent of the said James, moves to enter her solemn dissent from the will of her late husband, Evan Nicholson, who died in said county, and whose will has been, to wit: on the 10th day of January, 1835, duly proven and admitted to record in this court, and the said James and Sally his wife, late Sally Nicholson, enter their dissent from the said will, and all claims in said Evan's estate, under the same accordingly, and claim the distributive share allowed by law to the said Sally, as the widow of said Evan. It is therefore by the said court ordered to be entered upon the records of this court accordingly.

(Signed) JAMES ROGAN,
Judge of the County Court.

Alabama.

At a special term of the Orphans' Court, began and held for the county of St. Clair, at the court-house in the town of Ashville, on Wednesday, the 30th day of September, in the year 1835, before the Honorable James Rogan, Judge, on motion, it is ordered by the court that the order of sale heretofore issued, to wit, on the 2d of September instant, to Lewis Cunningham, sheriff of St. Clair county, as the administrator ex-officio of the estate of Evan Nicholson, so far as the same authorizes and directs him to sell the slaves belonging to said estate, as such administrator, be and the same is hereby revoked and for nothing held. And it is further ordered, that Sally Lamar, formerly Sally Nicholson, wife of the said Evan Nicholson, deceased, and John R. Nicholson, and their securities, in the bond executed by them as executrix and executor of the said estate, be released from all responsibilities henceforward touching their administration of the said estate, and that they settle their administration of the said estate without delay with the said Lewis Cunningham, the administrator of said estate heretofore appointed. And it is further ordered, that the said Lewis Cunningham, as such administrator, be and he is hereby directed to execute the will of the said Evan Nicholson, and that he be and is hereby made administrator of the said Evan Nicholson with the will annexed. And on motion and by agreement, it is further ordered, that John F. Dill, C. C. P. Farear, Robert Rowland, Abraham Wharton, and John W. Cobb, be and they are hereby appointed commissioners to divide the said negro slaves belonging to the said estate, and that they proceed to do the same at Ashville as soon as may be, to wit, on Saturday the

third day of October next, in manner following, to wit: The said commissioners shall proceed to divide the said negro slaves of the estate (to them to be produced) into five lots of equal value, to be made equal by the lots of larger value, paying to those of smaller value a sum sufficient to make them precisely equal; and when this shall have done, they shall be numbered from one to five, when they shall be put together promiscuously, and the said James Lamar, in right of himself and wife, shall proceed to draw, and the number which he may draw shall entitle him to the lot of negroes bearing the corresponding number, which said negroes thus drawn shall be delivered to him by the said Cunningham, and shall belong to him and his wife aforesaid and their heirs forever. And on motion and by agreement, it is further ordered, that the said Lewis Cunningham proceed to sell the balance of the personal property, together with the crop now on hand at the time now advertised, of the said Evan Nicholson on twelve months' credit, and that he pay over, after settlement of the said estate, and after allotting to the education of the children the fund for that purpose set apart in the will, to the said James Lamar the one-fifth of the proceeds of the same. And on motion and by agreement between the parties in their proper persons, as well as by their attorneys, it is further ordered, that the improvements of which the said Evan Nicholson died possessed be exposed to public sale, on twelve months' credit also; and that one-third part of the proceeds of the same be paid over to the said James Lamar and his wife and their heirs, and that a copy of this order be handed to the said Lewis Cunningham by the coroner of the county of St. Clair, and one also to the commissioner before named.

(Signed) JAMES ROGAN,
Judge of the County Court.

Special Orphans' Court, November 5, 1835. *Alabama.*

At a special term of the Orphans' Court, began and held for the county of St. Clair, at the court-house in the town of Ashville, on Thursday the 5th day of November, 1835, this day came forward John R. Nicholson and Nelson Harlin, in the right of himself and his wife, the heirs of Evan Nicholson, deceased, and filed their petition praying a division of the negro property of said estate; and it appearing to the satisfaction of said court that it would be to the benefit of said heirs, as well as all others, that the formality of the law in giving forty days' notice be dispensed with, and that commissioners be appointed forthwith to divide the negro property of said estate, it is therefore ordered by the court, that John W. Cobb, C. C. P. Farrar, Robert Rowland, and John F. Dill, be and is hereby appointed commissioners to divide the negro property of said estate in lots equal to the number of heirs of said estate, and in as equal amounts of value as can be, the larger amounts paying

to the smaller a sum sufficient to make them precisely equal; and when this shall have been done, they shall be numbered from one to twelve inclusive, when they shall be put together promiscuously, and the said John R. Nicholson and Nelson Harlin, in right of his wife and self, proceed to draw, and the number which they may draw shall entitle them to the lot of negroes being corresponding numbers, and to be delivered them by said commissioners to be their property forever. On the application of Isaac Nicholson and Martha Nicholson, heirs also of said estate, who, being of age sufficient to choose their own guardian, it is ordered by said court, that Nelson Harlin be and is hereby appointed guardian of said Isaac Nicholson and Martha Nicholson, and that he proceed to draw out of the lots of negroes in manner and form aforesaid, and said lots of negroes to be delivered over to said guardian to be the property of said heirs forever. It is further ordered by the court, that Lewis Cunningham, the administrator ex-officio, be appointed to draw for the following heirs, that is to say, James S. Nicholson, William Nicholson, Walter A. Nicholson, Ira Nicholson, Warren P. Nicholson, Sarah C. Nicholson, David E. Nicholson, and Mary Nicholson. Agreeably to the above order, said commissioners, that is to say, C. C. P. Farrar, John W. Cobb, and Robert *Bolin* have made the following report, which is ordered by the court to be recorded:

John R. Nicholson, No. 10, drew Hunter and Elsey, -	$250
Nelson Harlin, No. 8, Little Sam, - - - - -	400
Nelson R. Harlin, for Martha Nicholson, drew No. 6, Cuzzy, - - - - - - - - -	650
Do. do. for Isaac E. Nicholson, No. 11, Berry and Cresz, - - - - - - - - -	400
Lewis Cunningham drew for James N. Nicholson, No. 9, Polly, - - - - - - - - -	650
Do., for William Nicholson, No. 2, Peter, - - -	300
Do., for Walter A. Nicholson, No. 5, Sam, - - -	800
Do., for Ira Nicholson, No. 3, Josiah, - - - -	750
Do., for Sarah C. Nicholson, No. 4, Alec, - - -	800
Do., for David E. L. Nicholson, No. 1, Jim, - -	550
Do., for Mary Nicholson, No. 7. Hagar, - - -	650
Do., for Warren P. Nicholson, No. 12, Viney and child,	700

(Signed) JAMES ROGAN,
J. C. C.

Special Orphans' Court, 12th November, 1835.

On the application of James Lamar to be appointed guardian of David E. Nicholson and Mary Nicholson, heirs of Evan Nicholson, deceased, it is ordered by the Judge of the County Court, that the said James Lamar be and is hereby appointed guardian for the

above named heirs, that is to say, David E. Nicholson and Mary Nicholson, heirs of Evan Nicholson, deceased.

(Signed) JAMES ROGAN,
Judge of the County Court.

Special Orphans' Court, 17th Nov. 1835.

This day came into court John R. Nicholson, and made application that he be appointed guardian for James Nicholson, William Walter Nicholson, Ira Nicholson, Pendleton Nicholson, and Sarah Nicholson, heirs of Evan Nicholson, deceased. It is, therefore, ordered by the Judge of the County Court, that John R. Nicholson be and is hereby appointed guardian for the above heirs, viz: James Nicholson, William Nicholson, Walter Nicholson, Ira Nicholson, Pendleton Nicholson and Sarah Nicholson, heirs of Evan Nicholson, deceased.

(Signed) JAMES ROGAN,
Judge of the County Court.

Special Orphans' Court, 11th March, 1836.

It is ordered by the judge of the County Court, that Sarah Lama (alias Sarah Nicholson), administrator, and John R. Nicholson, administrator of the Estate of Evan Nicholson, deceased, be required to appear before said court forthwith, and show in what manner they have disposed of said estate up to the time of the appointment of Lewis Cunningham, administrator and executor. The above parties having appeared agreeable to notice, and having filed their accounts for inspection (all parties agreeing to the same). It is, therefore, ordered that they be recorded.

(Signed) JAMES ROGAN,
J. C. C.

Special Orphans' Court, September 10, 1836.

Whereas, it has been made known to the Judge of the County Court, that John R. Nicholson, guardian for Walter, Ira, Pendleton, Sarah, and James Nicholson, heirs of Evan Nicholson, deceased; that he has maltreated the aforesaid wards, and that he is about to remove out of the State. It is, therefore, ordered by the court that the said John R. Nicholson be and appear before the Judge of the County Court, at an Orphans' Court to be held at the Court-house, on the first Monday in October next, then and there to give new security for his guardianship as well as for the good protection of said wards.

(Signed) JAS. ROGAN,
J. C. C.

Special Orphans' Court, September 16, 1836.

Whereas, complaint has been made to the Judge of the County Court, that James Lamar and his securities, as guardian of David E. Nicholson and Mary Nicholson, heirs of Evan Nicholson, deceased, is about to remove out of the State: it is, therefore, ordered by the court, that James Lamar appear and be before the Judge of the County Court, at an Orphans' Court, to be held in the town of Ashville on the 4th Monday in September next, *then and there* to give new security for his said guardianship.

(Signed) JAMES ROGERS,
J. C. C.

October 26, 1836.

Whereas, notice has been given to John R. Nicholson, guardian of James V. Walter, Ira Pendleton, and Sarah Nicholson, heirs of Evan Nicholson, deceased, to be and appear before the Judge of the County, on the 4th of this inst., to give new bond as guardian of said heirs, and having failed to do so, it is therefore ordered by the Judge of the County Court, that his guardianship be null and void. And it is further ordered, that notice be issued requiring him, the said guardian, to be and appear before the Judge of the County Court, to be held in the town of Ashville, on the first Monday in December next, to make settlement of his said guardianship.

(Signed) JAMES ROGAN,
Judge of C. C.

Special Orphans' Court, Oct. 31, 1836.

According to previous notice given to James Lamar, to appear before the Judge of the County Court, on the 4th Monday in September last, for the purpose of giving new bond as guardian of Sarah Nicholson, David Nicholson, and Mary Nicholson, heirs of Evan Nicholson, deceased, said James Lamar having appeared; it is, therefore, ordered by the Judge of the County Court, that James Lamar be and is hereby appointed guardian of the above-named legaties, viz: Sarah Nicholson, David Nicholson, and Nicholson. It is also ordered by the court, that the said James Lamar be and is hereby appointed guardian for James V. Nicholson, Walter Nicholson, Ira Nicholson, and Pendelton Nicholson, heirs of Evan Nicholson, deceased.

(Signed) JAMES ROGAN,
J. C. C.

Special Orphans' Court, November 10, 1836.

It is ordered by the Judge of the County Court, that Nelson Harlin be and appear before the Judge of the County Court, at an Orphans' Court to be held at the town of Ashville, on the first

Monday in December, next, for the purpose of giving new bond as guardian for Martha and Isaac Nicholson, heirs of Evan Nicholson, deceased.

(Signed) JAMES ROGAN,
J. C. C.

Orphans' Court, December 5, 1836.

It is ordered by the Judge of the County Court, that that Nelson Harlin, guardian for Isaac Nicholson and Martha Nicholson, be notified to come forward before the Judge of the said County Court, at the Court-house, in the town of Ashville, on the first Monday in January, next, and give new bond and security for his said guardianship, or else his letters of guardianship for said Wards will be revoked.

(Signed) JAMES ROGAN,
Judge of the County Court.

Special Orphans' Court, Dec. 13, 1836.

Whereas, notice was issued on 26th day of October last, requiring John R. Nicholson, guardian of James O. Nicholson, William Nicholson, Walter A. Nicholson, Ira Nicholson, Warren Nicholson, Sarah C. Nicholson, the heirs of Evan Nicholson, deceased, to be and appear before the Judge of the County Court, at an Orphans' Court to be held in the town of Ashville, on the 1st Monday in December, to make settlement of his said guardianship; said notice not having been served. It is, therefore, again ordered by the court, that he, the said John R. Nicholson, guardian, &c., be and is hereby required instanto, to be and appear before the Judge of the County Courts, to render into said county an inventory of the above Wards estate, so far as he may got in his possession; also to make final settlement of his said guardianship.

(Signed) JAMES ROGAN,
Judge of the County Court.

Issued December 13, 1836.

Services acknowledged same date.

Orphans' Court in Vacation, 7th Dec. 1837.

This day came into court Lewis Cunningham, administrator ex officio, of the estate of Evan Nicholson, deceased, and files his accounts and vouchers for final settlement. It is, therefore, ordered by the Judge of the County Court, that publication be made for forty days, in the *Huntsville Democrat*, requiring all persons interested in the final settlement of said estate, to be and appear at an Orphans' Court, to be held in the town of Ashville, on the third Monday in January, next, then and there to show cause if any they

have, why said final settlement shall not be made. Whereas, James Lamar, guardian of the heirs of Evan Nicholson, deceased, to wit: Sarah Nicholson, David Nicholson, and Mary Nicholson; also for James V. Nicholson, Walter Nicholson, Ira Nicholson and Pendleton, not having complied with the requirements of the law in rendering in an inventory of all or any of the estate, real or personal belonging to said heirs. It is therefore ordered by the court, that James Lamar, guardian of Sarah Nicholson, David Nicholson, and Mary Nicholson; also for James V. Nicholson, Walter Nicholson, Ira Nicholson, and Pendleton Nicholson, heirs of Evan Nicholson, deceased, be and is hereby required to appear at an Orphans' Court, to be held in the town of Ashville, on the third Monday in January, next, then and there to render in an inventory of the estate of said heirs as the law directs.

(Signed) JAMES ROGAN,
J. C. C.

Alabama.

At a Special Term of the Orphans' Court began and held for the County of St. Clair, in the town of Ashville, on Monday, the 11th December, 1837.

Whereas, John R. Nicholson, on the 17th day of November, A.D. 1835, was appointed, by the Judge of the Court, guardian for the heirs of the estate of Evan Nicholson, deceased (to wit), James Nicholson, William Nicholson, Ira Nicholson, Pendleton Nicholson, and Sarah Nicholson, and the said John R. Nicholson, guardian, having been notified by order of said court, on the 13th December, 1836, to appear before said court instanto and make final settlement of his said guardianship, the service of said notice having been acknowledged; but he, the said John R. Nicholson, guardian, &c., not regarding said notice, refuses to obey the order of said court from that time up to the present. It is, therefore, ordered by the Judge of the County Court that attachment issue against the body of the said John R. Nicholson, guardian for, &c., compelling him to be and appear at an Orphans' Court, to be held in the Town of Ashville, on Monday, the 17th day of December next (1837), then and there to make final settlement of his said guardianship.

(Signed) JAMES ROGAN,
Judge of the County Court.

At a Special Term of the Orphans' Court, began and held for the County of St. Clair, in the town of Ashville, on Thursday, the 21st day of December, 1837.

Whereas, attachment was issued by order of the court, on the 11th day of this month, December, against the body of John R. Nicholson, guardian for the heirs of Evan Nicholson, deceased, and said attachment having been returned by the Sheriff of Marshall

County, with the following indorsement (viz.): Come to hand the 15th December, 1837, P. M. Bush, Sheriff. Not to be found, December 16th, 1837, P. M. Bush, by his deputy Geo. W. Allen.

It is ordered by the court that a second attachment issue against the body of the said John R. Nicholson, guardian for the heirs of Evan Nicholson, deceased, compelling him to be and appear at an Orphans' Court to be held in the town of Ashville, on the third Monday in January next (1838), then and there to make final settlement of his said guardianship.

(Signed) JAMES ROGAN,
Judge of the County Court.

(Issued to the Sheriff of Marshal County, Alabama, this 21st December, 1837.)

Special Orphans' Court, 16th February, 1838.

Whereas, attachment was issued on the 21st December, 1837, against John R. Nicholson, guardian for the heirs of Nicholson, deceased, and said attachment having been returned not executed.

It is ordered by the court that attachment issue again requiring said John R. Nicholson to be and appear at an Orphans' Court, to be held in the town of Ashville, on the first Monday in April next, then and there to make final settlement of his said guardianship.

(Signed) JAMES ROGAN,
J. C. C.

At a Special Orphans' Court, began and held for the County of St. Clair, in the town of Ashville, on Tuesday, 20th day of February, 1838.

It is ordered by the court, that the report of Sarah Lamar, formerly (Sarah Nicholson), be committed to record.

It is also ordered by the court, that the report of John R. Nicholson, administrator, be committed to record, together with the amount due from Nelson Harlin, in right of his wife, received from said estate before divisions.

(Signed) J. ROGAN,
J. C. C.

Orphans' Court, Monday, 25th February, 1838.

Report of Sarah Nicholson (now Sarah Lamar), administratrix of the estate of Evan Nicholson, deceased, for moneys had and received while acting as administratrix.

Dr.

To cash paid out of funds belonging to estate to James Lamar	. . . . .	. . .	$42 56
"	do.	do.	32 62
"	do.	do.	20 00

To cash paid Nelson Harlin's wife	10 00
" 81 lbs. Pork	4 05
" cash loaned Cruchfield	20 00
" " Isaac Nicholson	13 00
Bacon, &c.	20 00
Received of volunteers (troops)	16 75
	$198 98

Cr.

By cash paid Newman agreed by parties to be correct, no voucher	$21 00	
" do. do.	11 71	
" cash paid Black Fox	12 00	
" " " for Schooling	25 00	
" " " Nelson Harlin	15 00	
" " " James Lamar	50 00	
" " " Lawyers' fee	50 00	184 71
		$14 27

Balance due from James Lamar (for his wife), Sarah Lamar, to the estate of Evan Nicholson, deceased, the above amount of $14 27, which amount is decreed by the court to be considered a part of the estate of said deceased, and to be deducted out of the amount which may be due to James Lamar in right of his wife, when a final settlement is made with Lewis Cunningham, administrator or executor of said estate.

(Said Report made July, 1835.)

(*Continued.*)

Report of John R. Nicholson, former administrator of the estate of Evan Nicholson, deceased, for moneys, property, &c., returned by him the said administrator when making a surrender of said estate to Lewis Cunningham, administrator or executor.

John R. Nicholson, debtor to said estate.

To 1 Mare and Colt	$100 00
" 1 yoke Steers	22 00
" 2 Cows	18 00
" 1 Negro Boy	200 00
" 1 Domestic	3 75
" 5 Hogs	12 25
" 1 Axe and Plough	3 12½
" 1 Bed and Furniture, Gun and Saddle	32 00
" 2 Sheep and 1 Table	6 00

To 1 note on Cruchfield	76	35
" Corn and fodder sold by you . .	2	75
" 4 lbs. nails		50
" Received of Wm. Nicholson in exchange of horses	25	00
" 10 pounds of coffee	2	00
" 8 pounds cotton	1	00
" Cash	30	00
" " (paid Gage)	10	00
" " (bacon sold)	14	87
Cr. By amount of account for sundries,	$559	22½
No. 8, account filed . . .	323	75
	$235	47½

The above amount of $235 47½ is due from John R. Nicholson to the estate of Evan Nicholson, dec'd, and which is decreed by the Court, be deducted out of his, the said John R. Nicholson's proportion of said estate at final settlement of same.
(Report made July, 1835.)

(*Continued.*)

Nelson Harlin, in right of his wife, one of the heirs of the estate of Evan Nicholson, dec'd, has received from John R. Nicholson, administrator of said estate as per his report, the following property and money as a part of his proportionable share of said estate, the rest whereof has been acknowledged before the Judge of the County Court.

Dr. to one bed and furniture, &c.,	$14 75
" " one Negro girl,	137 50
" " cash of J. Lamar,	15 00
	$167 25

Accounts filed. No. 9. *July*, 1835.

It is decreed by the Court that the above amount of $167 25 be deducted out of the amount, which may be due to Nelson Harlin, at final settlement of said estate.

(*Reports continued.*)

Report of Lewis Cunningham, administrator ex officio of the estate of Evan Nicholson, dec'd, showing the manner in which the negro slaves of said estate was disposed:—

Dr. Received of former administrator—

1	Negro	man	valued at	(Peter) . . .	$300 00
1	"	woman	" "	(Polly) . . .	650 00
1	"	man	" "	(Sam) . . .	800 00
1	"	"	" "	(Josiah) . .	750 00
1	"	woman & child	" "	(Viny) . . .	700 00
1	"	man	" "	(Alek) . . .	800 00
1	"	"	" "	(Little Sam) . .	400 00
2	"	boy and girl	" "	(Beny and Creesy)	400 00
1	"	woman	" "	(Cuzzy) . .	650 00
1	"	man	" "	(Jime) . . .	550 00
1	"	woman	" "	(Hager) . .	650 00
1	"	old man & child	" "	(June and Alcez) .	250 00
					$6900 00

In addition to the above, there was one negro man and one negro woman named Stephen and Fanny, both of which was drawn out of the whole of the negroes belonging to said estate by James Lamar in right of his wife (Sarah Lamar) as a part of his distributive share, there being a balance due him from the legatees in division of said negroes of $220, so as to make his part one-fifth of the whole. See James Lamar's rects. filed, No. 10.

It is therefore decreed by the Court that James Lamar, in right of his wife, be paid the above amount of two hundred and twenty dollars out of said estate on final settlement.

The following is the manner in which the foregoing negroes were divided as per order of Court:—

Rects. filed and numbered as follows:

Cr.	By James Lamar, rec't as guardian, for David E. Nicholson, No. 11, one negro man, June,	$550 00
	Do. as guardian for Mary Nicholson, one negro woman, No. 12,	650 00
	John R. Nicholson rect.—	
	No. 13. As guardian for William Nicholson, 1 negro, Peter	$300 00
	" 14. As guardian for James V. Nicholson, 1 negro woman, Polly	650 00
	" 25. As guardian for Walter J. Nicholson, 1 negro man, Sam	800 00
	" 16. As guardian for Ira Nicholson, 1 negro man, Josiah	750 00
	" 17. As guardian for Warren P. Nicholson, 1 negro woman and child, Viney . .	700 00
	" 18. As guardian for Sarah C. Nicholson, 1 negro man, Alek	800 00
	" 19. For himself, 1 negro man, Hunter, and 1 woman, Alcey	250 00

Nelson Harlin received—

" 20.	For himself, 1 negro boy, Sam . . .	400 00
" 21.	As guardian for Isaac Nicholson, 1 negro woman, Creesy, and 1 negro boy, Berry	400 00
" 22.	As guardian for Martha R. Nicholson, 1 negro woman, Cuzzy	650 00
	Making the sum of	$6,900 00

Which sum is equal to the valuation. Therefore said adms. is decreed by the Court to be discharged from any further liabilities on the above part of E. Nicholson, dec'd, estate.

(Signed) JAMES ROGAN,
J. C. C.

Report of Lewis Cunningham, admr. ex officio of the estate of Evan Nicholson, dec'd, continued.

Dr.

To and sale of said estate, as per account of sales filed and recorded together for sundry notes, &c. as follows:—

Amount of sales		$3,470 66
Note on Thos. Gass (Bal.)	$148 00	
Interest on same	39 00	
Edward Adair and others	166 67	
James J. Trott, note for trade for $100, but only produced cash	75 00	
William S. Adair's note	166 67	
Interest on same	27 08	
Interest on E. Adair's note	15 00	
Andy Ross's note	100 00	
David Gage's note	19 00	
Balance due on F. Cruchfield's interest . .	292 00	
Corn sale, not included in sale . . .	10 61	
Received for negro hire	47 00	
Due from James Lamar, as per Sarah Lamar's report as adm'x	14 27	
Due from John R. Nicholson's adms. as per his report	235 47	
Due from Nelson Harlin, as per his acknowledgment and account recorded . . .	167 25	
Interest on cash made use of . . .	82 00	1,645 02
This amount carried forward to the other page		5,115 68
Dr. to amount brought forward . . .		$5,115 68

Cr.

By amount paid S. S. Hinton, voucher No. 1.			20 00	
" " C. C. Farrar	"	" 2.	30 00	
" " Nathan Lamar	"	" 4.	46 00	
" " Geo. M. Lavender	"	" 5.	4 95	
" " Lewis T. Green	"	" 6.	13 75	
" " J. J. Bothwell	"	" 7.	50	
" " Jas. Lamar, for bill	"	" 8.	2 50	
" " A. & A. W. Beyer	"	" 9.	8 50	
" " M. & A. T. Dean	"	" 18.	3 12½	
" " P. Nagbor	"	" 19.	45 00	
" " White & Rogan	"	" 20.	34 94	
Sheriff's adms. for costs, &c.	"	" 21.	556 56	
Clerk's receipt for fees, &c.			120 37½	
Judge's fees, for extra services, employing counsel, paper, postage, &c. . . .			30 00	906 20
				$4,209 48

The above amount of four thousand two hundred and nine dollars and forty-eight cents is the amount of the personal estate of Evan Nicholson, dec'd, as administered by Lewis Cunningham, admr. ex officio of said estate.

The items in the accounts on the opposite side marked thus is not chargeable to the present administrator, inasmuch as it is part of said estates in the hands of former adms., and adms. and als. one of the heirs of said estate; therefore, deducting these items from the above amount leaves due from adms. Lewis Cunningham, the sum of $3,792 49, and as public advertisement having been made for final settlement of said estate.

It is, therefore, decreed by the Court that Lewis Cunningham pay into the office of the Clerk of the County Court the above sum of $3,792 49, deducting the several amounts paid the heirs and guardians of the heirs of said estate. (Continued.)

(Report of Estate of Evan Nicholson, dec'd, continued.) It is ordered by the Court that the vouchers of Lewis Cunningham, admr. of the estate of Evan Nicholson, dec'd, be recorded.

Cr.

By James Lamar, rect. March 10, 1836 . . .	$1,100 00
" " as guardian	89 31
" " as guardian	139 82
" " rect. for A. Ross's note . . .	100 00
" " rect. 17th Jan. 1838	279 00
By John R. Nicholson, rect. 10th March, 1836 . .	100 00
" " as guardian	428 00
" " "	28 64
" " "	78 00

By James Lamar's rect. 25th Sept., 1838 . . .	300 00
" error in addition of estate, see opposite page . .	40 00
" James Lamar's rect. 25th December, 1838 . .	40 00
" John O. Femster's rect. 20th Oct. 1839 . . .	13 95
" John R. Nicholson's note for property purchased by him at sale of estate, and which is unpaid by him and to be retained out of his portion of said estate; said note due 19th October, 1836, with interest to 25th Feb., 1838	520 58
" cash paid out and sundry services rendered in endeavoring to secure debts due said estate, from John R. Nicholson and others, since my report, made 25th Feb'y, 1838	50 00
" cash paid James Lamar, guardian, &c.	343 23
And debts brought forward	3,650 33
	3,792 49.
	142 16

Yet in the hands of Lewis Cunningham, admr. of estate, the above amount of $142 16. James Lamar's rect. in full of the above $142 16, May 6th, 1840.

(Signed) JAMES ROGAN,
J. C. C.

Special Orphans' Court, 26th February, 1838.

Whereas, James Lamar, guardian for, &c., the heirs of Evan Nicholson, dec'd, has presented his report of his said guardianship. It is, therefore, ordered by the Court that said report be recorded and constitute a part of this entry.

THE STATE OF ALABAMA,
St. Clair County:

Report of James Lamar, guardian for, &c., the heirs of the estate of Evan Nicholson, dec'd.

Dr.

As guardian for David E. Nicholson, heir of said estate.

1 negro man, named June, valued at	$550 00
To cash 10th March, 1836	139 82
Interest and hire of negro to 16th January, 1838 .	212 92
	902 74

Cr.

By schooling, boarding, and clothing said heir from the time I was appointed guardian to 16th Jan. 1838 .	$80 00
	822 74

Dr.

As guardian for Mary E. Nicholson, heir of said estate.

To 1 negro woman, valued at	$650 00
Cash, 10th March, 1836	89 31
Interest and hire of negro, to 16th Jan., 1838 . .	158 33
	897 64

Cr.

By boarding and clothing Mary E. Nicholson up to 16th January, 1838	50 00
	847 64

The above amount of eight hundred and twenty-two dollars and seventy-four cents is the amount of funds consisting of property and cash as stated, belonging to David E. Nicholson, heir of the estate of Evan Nicholson, deceased, so far as have come into my hands, also the amount as above stated of eight hundred and forty-seven dollars and sixty-four cents, is the amount of funds consisting of property and cash as per statement, belonging to Mary Nicholson, heir of the estate of Evan Nicholson, so far as have come into my hands. Appeared before me, James Rogan, Judge of the County Court for said County, James Lamar, guardian for the above heirs, and being sworn, deposeth and sayeth the above is a true statement of all moneys and property belonging to said heirs so far as have come into his hands up to this date.

(Signed) JAMES LAMAR,
Guardian.

(Signed) JAMES ROGAN,
Judge of C. C.

Sworn and subscribed to this 16th Jan., 1836.

JAMES ROGAN,
J. C. C.

At a special session of the Orphans' Court began and held for the County of St. Clair, in the town of Ashville, on Tuesday 27th day of Feb. 1838. Whereas John R. Nicholson, guardian for the several heirs of Evan Nicholson, deceased, having been notified to

appear and make final settlement of this said guardianship, refuses to obey said notice, and whereas attachment having been issued against said guardian, and the same being returned by sheriff endorsed Not to be found in my County. It is therefore ordered by the court that the several amounts belonging to the several heirs of said estate for which he the said Nicholson is guardian, be recorded as per his rects. and statements of the admr. of said estate, which is as follows:

Dr. As guardian for William Nicholson.

Received 1 negro named Peter, 19th Nov. 1835, valued at		$300 00
Cash received 10th March, 1836,		428 00
Interest on same to 19th Dec., 1837,		109 28
		$837 28

Received as guardian for James V. Nicholson.

1 negro named Polly, 19th Nov., 1835, valued at	$650 00	
Cash 10th Mar., 1836,	100 00	
Interest on same to 19th Dec., 1837,	122 58	872 58

As guardian for Walter A. Nicholson.

1 negro named Sand,	800 00	
Interest on same to 19th Dec., 1837,	133 33	933 33

Dr. As guardian for Ira Nicholson.

1 negro named Josiah, 19th Nov., 1835, valued at	750 00	
Cash 10th March, 1836,	28 64	
Interest to 19th Dec., 1837,	130 00	908 64

As guardian for Sarah C. Nicholson.

Received 1 negro boy named Alek, 19th Nov. 1835, valued at	800 00	
Interest to 19th Dec., 1837,	133 33	933 33

As guardian for Warren P. Nicholson.

Received 1 negro woman and child, Viney, valued at	700 00	
Cash received 10th March, 1836,	78 00	
Interest to 19th Dec., 1837,	129 75	907 75
		$5,392 91

According to the statements of administrators of the estate of Evan Nicholson, deceased, there is due to the several heirs of said estate, for which John R. Nicholson was appointed guardian, the

above sum of five thousand three hundred and ninety-two dollars and ninety-one cents, due up to 19th December, 1837.

(Signed) JAMES ROGAN,
Judge of C. C.

Special Orphans' Court, 14th Oct., 1841.

Whereas W. C. Smith and S. C. Smith have given notice that they will no longer be considered the securities of James Lamar, guardian of the heirs of Evan Nicholson, deceased. It is therefore ordered by the court that notice be given to James Lamar, to be and appear at an Orphans' Court, to be held in the town of Asheville, on the first Monday in December next, then and there to give new bond, otherwise his said guardianship will be made null and void.

Special Orphans' Court, 23d Nov., 1842.

Notice having been heretofore given to James Lamar, guardian of David E., Mary E., James V., Walter, Ira, Pendleton and Sarah Nicholson, heirs of the estate of Evan Nicholson, deceased, and according to said notice said James Lamar comes forward and makes the following report, to wit:

James Lamar, as guardian of David E. Nicholson,			
Dr. To amount as per report made 26th Feb., 1838, .			$822 74
Interest on $352 74 from 16th Jan., 1838, to 16th January, 1842, ...			112 87
Hire of negro June from 16th Jan., 1838 to 16th Nov., 1838, ...			62 50
Interest on hire of boy two years, . .			10 00
			$1018 11
1. *Cr.* By amount price of negro boy June, as charged in first report, and 28th December, 1838, ...	$550 00		
2. " Amount paid doctor's bill for attending on boy June, and interest, . .	45 00		
3. " Expenses and services rendered, .	20 00		
			615 00
4. " Amount due to David E. Nicholson up to the 16th January, 1842, . .			$403 11
Dr. To amount due to Mary E. Nicholson, as per report made 26th February, 1838, .			827 64
Interest on $247 64 to 16th Jan., 1842, . .			79 24
Hire of negro woman up to 16th Jan., 1842, deducting loss of time, &c., . . .			100 00
Carrried over, .			1026 88

Dr. To amount due to Mary E. Nicholson, brought over,			$1026 88
1. Cr. *Cr.* by amount paid for tuition, 1839,	$5 00		
Interest,	1 20		
2. " Board, &c., with interest,	35 00		
3. " Tuition 1840, and interest,	24 67		
4. " Expenses paid, and doctor's bill,	40 00		
5. " Schooling and boarding in 1841,	23 75		
		129 62	
			$897 26
Amount due to Mary E. Nicholson as per statement above, including negro woman valued at $650, leaving a balance due in cash, up to 16th January, 1849,			$247 26
Dr. To am't due to James O. Nicholson, (idiot) received of Lewis Cunningham,			190 32
1. *Cr.* Services rendered to said *idit* 2 years, supposed to be equal to the amount,			190 32
2. Other services yet due from estate of said James W. Nicholson, (idit) deceased,			
Dr. To amount due to Walter Nicholson, rec'd of Lewis Cunningham,			$40 32
Interest on same to 16th January, 1842,			13 70
			$54 02
1. *Cr.* By his portion of expenses and services as per account filed, with interest,			46 70
			$7 32
2. Due Walter Nicholson up to 16th January, 1842. *Dr.* To amount due to Ira Nicholson, received of Lewis Cunningham,			$90 32
Interest on same to 16th January, 1842,			29 00
			$119 32
1. *Cr.* By services rendered and expenses paid in 1838, 1839, 1840, and 1841, with interest,	$50 91		
2. D. Clayton rec't for board, 1838,	16 25		
Interest on same to 16th January, 1842,	5 20		
3. John Craig *Dr.* with interest,	6 60		
4. James Huge do.,	28 00		
Interest on same to 16th January, 1842,	6 72		
5. S. H. Copeland, for tuition and interest,	7 00		
		120 68	
Leaving a balance due to guardian to			$1 36

One dollar and thirty-six cents to be refunded out of any other estate of said ward which may come into the hands of said guardian.

Do. to amount due to Pendleton Nicholson, received of Lewis Cunningham,		$140 32
Interest on same to 16th January, 1842,		44 90
		185 22

Cr. By services rendered and expenses:

1. Paid in 1838, 1839, 1840, and 1841, with interest,	$50 91	
2. Clayton's rec't for board and interest,	13 20	
3. James Rogan do. for board and interest,	34 75	
4. J. H. Copeland for tuition,	6 96	
5. Do. Do.	16 41	
6. John Casey for board, 1838,	6 60	
		128 83
		$56 39

Balance due to Pendleton Nicholson up to 16th January, 1842, as above.

Dr. To amount due to Sarah Nicholson, rec'd of Lewis Cunningham,	$40 30
Interest on same to 16th January, 1842,	12 90
	53 22

1. *Cr.* By services rendered and expenses paid in 1838, 1839, 1840, and 1841, with interest,	$50 91	
2. John Craig, rec't for board,	6 60	
3. Andy Russel, do.,	18 68	
4. C. Reed, do. 1838,	6 60	
5. Copeland rec't for tuition,	6 96	
6. Do. Do.	16 41	
7. W. L. Driskil, do.,	8 25	
8. Clayton rec't for board, 1838,	13 20	
9. Do. Do.	1 25	
		128 86
		$75 64

Leaving a balance due to guardian of seventy-five $\frac{64}{100}$ dollars to be refunded out of any other estate of said ward that may come into the hands of said guardian.

1844.

Recapitulation of the foregoing Report.

Amount due to David E. Nicholson, . .		$403 11
Do. do. Mary E. Nicholson, . .		247 26
Also one negro woman valued at $650,		
Amount due to Walter Nicholson, . .		7 32
Do. do. Pendleton Nicholson, . .		56 39
Due to guardian from Ira Nicholson, . .	$1 36	
Do. do. Sarah Nicholson, .	75 64	
	77 00	$714 08

James Lamar, guardian for the wards specified in the foregoing report, appears in open court and makes oath that said report is true and correct, so far as anything has come into his hands belong to said wards.

It is therefore ordered, that the several sums annexed to the names in the foregoing report, to wit—To David E. Nicholson the sum of five hundred and three $\frac{11}{100}$ dollars; to Mary E. Nicholson the sum of two hundred and forty-seven $\frac{26}{100}$ dollars, as well as a negro woman valued at $650; to Walter Nicholson the sum of seven $\frac{32}{100}$ dollars; and Pendleton Nicholson the sum of fifty-six $\frac{39}{100}$ dollars—be and is hereby decreed by the court to be due to said wards from James Lamar, the guardian thereof, and for which execution may issue.

It is also decreed by the court, that the amounts are paid by said guardian to Sarah Nicholson the sum of $75 64, and to Ira Nicholson the sum of $1 36, of right shall be refunded to said guardian out of any estates which may come into his hands hereafter belonging to said wards.

(Signed) JAMES ROGAN,
Judge of C. C.

THE STATE OF ALABAMA,
St. Clair County:

I, Ross Philips, Clerk of the County Court in and for said county, do hereby certify that the foregoing pages, numbered from 1 to 25 inclusive, contain, as appears of record in my office, a true and perfect transcript of all the proceedings of the Orphans' Court of said county, in and about the estate of Evan Nicholson, deceased, from the time that Lewis Cunningham, sheriff of said county, was appointed administrator ex-officio of said estate until his final settlement of said estate with said court.

In testimony whereof, I have hereunto set my hand and seal of office, at office in the town of Ashville, this fifth day of January, A. D. 1846.
[L. S.]

ROSS PHILIPS,
Clerk of the County Court of said County.

THE STATE OF ALABAMA,
St. Clair County:

I, John J. Thomason, Judge of the County Court of said county, do hereby certify that Ross Philips, whose name appears the foregoing certificate, a clerk of the county of said St. Clair county, duly commissioned as the law requires, and that full faith and credit is and ought to be given to all of his official acts and attestation as such, and that the signature purporting to be his signature is genuine.

Given under my hand and seal, this the fifth day of January, A. D. 1846.

JOHN J. THOMASON, [SEAL.]
Judge of the County Court.

(*Exhibit B., to Bill.*)

UNITED STATES OF AMERICA.

To the Honorable the Judges of the Federal Court, sitting in Jackson, Mississippi, 7th Judicial Circuit.

Bennet R. Truly, a citizen of Madison county in the State, respectfully begs leave to show your honors, that sometime in the year 1836, he thinks in December, he purchased five negroes, to wit, Sam, Si, Alexander, Mary and Peter, of one John R. Hubert, who was then a citizen of this State, but who is now. He died in Texas, *and has no administrator known to your orator.* These negroes had just been brought into this State for sale, from Alabama or Georgia (*it is believed*), by one John R. Nicholson, contrary to the Constitution of the State of Mississippi. Some agreement it seems had been made between Hurbert and Nicholson, respecting these negroes, either before or after they were brought into this State, for Hurbert was the ostensible party in selling them to your orator; these negroes were purchased by your orator upon a credit, for which he executed his two promissory notes, for the sum of $3,575 each, copies of which are herewith filed, marked A. and B., and are prayed to be taken as part of this bill; the first one, Exhibit A., bears date the 7th February, 1837, and payable twelve months after the first day of March, 1837, is signed by Dennis Burns and William Southerland, who were securities for your orator in that note, and is made payable to John R. Nicholson, or bearer, but the name of the person to whom the same was to be made payable, was not inserted at the time said note was signed, but was left blank, and was afterwards filled up with the name of John R. Nicholson, and your orator never knew until he was afterwards sued upon this note, with whose name the blank had been filled up. Exhibit B. bears date the 1st February, 1837, and was made payable to the order of A. H. Robinson, and by him and one Wm. O. Aldridge, is indorsed in blank, and payable at the banking house of the Mississippi and Alabama

1885

Railroad Company, at Brandon, to bear ten per cent. interest after due, stating on the face thereof to be for the loan of money, which was not true in fact, but this was not objected to by your orator, as said Hubert stated that his object in writing it in that way, was to enable him to get the same discounted in said bank. Your orator took said Hubert's bill of sale for said negroes, but the consideration therein stated is less than the amount of said two notes, and the consideration stated in the bill of sale is, what the negroes were estimated to be worth at the time in cash; and there interest was added for the time the notes had to run to maturity, which makes the difference between the amount of consideration stated in the bill of sale and the amount of the notes. Your orator cannot state the date of said bill of sale, as it is not present, but the same shall be in this cause, on or before the final hearing, as the honorable court may direct. On the note payable to John R. Nicholson, your orator has been sued in this Honorable Court, and on or about the day of June, 1838, judgment was rendered thereon against your orator, in favor of said Nicholson, for about the sum of $3,646 $\frac{50}{100}$, which judgment your orator has paid off; the other note (Exhibit B.), seems to have been under the control of said Hurbert, who had become insolvent, and indeed insolvent, and one Josiah Bonner, being his endorser or surety. Said Hurbert placed the said notes in the hands of one Hamilton McCauley, as indemnity for said Bonner as his surety as aforesaid; said last-mentioned note, with some others on other persons, were sent in the year 1837, by said Hurbert, in a letter to said McCauley, in which letter said Hurbert instructed said McCauley to collect this note with the others, and apply the proceeds when collected, to the payment of a bill of exchange, drawn by said Hurbert with said Bonner, and others his sureties, for the sum of about thirty-seven hundred and nine dollars and forty cents, upon Bogart and Hooper, and by them accepted, upon which bill suit had been commenced, as your orator had been informed and believed at the May Term, 1837, of the Circuit Court of the United States, at Jackson, in favor of the United States Bank, against Hurbert and Bonner, and upon which judgment was rendered at the November Term of said court, 1837, which judgment, as your orator was informed and believed, had been paid off by said Bonner, security as aforesaid. At the May term, 1839, of this Honorable Court, your orator was summoned as a garnishee at the *suit* of Wanzer & Harrison *vs.* John R. Hurbert and others, and on the 6th day of May, 1839, he filed his answer in said cause, to which your orator begs leave to refer. Your orator was informed and believed, that a final judgment had not been rendered against him in said cause, and he would be required again to appear before the court, and your orator charges that such was the understanding of the clerk at the time, and it appears from the rough minutes of the clerk, that the honorable court ordered judgment to be entered against your orator, according to his answer, which your orator charges did not

authorize a judgment final against him for the amount of said note; but he is advised that it was only intended by the court to make such order therein, as would give your orator an opportunity of availing himself of any legal defence to which he might by the laws be entitled; but the clerk misunderstanding the order of the honorable court at the time, has entered a final judgment against your orator for the full amount of said notes in favor of said Wanzer and Harrison, and an execution has been issued thereon and by the marshal levied upon the property of your orator, and he has been compelled to give a forthcoming bond for the delivery of the property, &c., which your orator charges is illegal, oppressive, and unjust. Your orator charges that said negroes were brought into this State since May, 1833, for the purpose of sale and merchandise contrary to the Constitution. And your orator shows at the time he filed his answer to said garnishment summons, he knew the fact that the negroes for which this note had been given, had been brought to this State for sale and as merchandise contrary to the Constitution; but he was not advised, however, that it was necessary in any manner to set up or waive that ground of defence; although your orator never did either directly or indirectly waive, or in any manner agree to waive that ground of defence; yet he had not until lately intended to avail himself of it; he has lately been informed, and he believes the information to be true, and so charges that said John R. Nicholson was guardian for certain minor children, his younger brothers and sisters, to whom alone the very same negroes belonged, and that the said Nicholson got possession of them as guardian, ran them off to this State and sold them as aforesaid, and that said negroes are now the property of said minors, who are the younger brothers and sisters of said Nicholson, and the minor children of . . . Nicholson, dec'd. Your orator is advised, and so charges, that he is liable to be called on for said negroes by said minor children, and may be compelled to account for them at any time, and he is apprehensive that even if he should not be called upon to account for said negroes soon, he may be at some distant day; and inasmuch as your orator may, by the lapse of time, be deprived of many of the facilities which he now has in favoring the rights of said minors in this suit, as advised, he begs leave to set up and avail himself of all the grounds of defence to the notes aforesaid, which he is entitled to by the constitution and laws of this State. Your orator charges that the notes given by your orator for said negroes, and upon which judgments have been rendered as aforesaid, were given for the consideration of the negroes aforesaid brought into this State since May, 1833, as merchandise, and for sale contrary to the constitution of this State, and that said notes are therefore absolutely void, and ought so to be declared by this honorable court. Your orator further charges, that the negroes for which said notes were given were not the property of said John R. Nicholson, nor of said Hurbert, but, on the contrary, were the

property of said minor children of the said Nicholson, deceased, which was unknown to your orator at the time he purchased said negroes, and was not known to him, until said, the rendition of the judgment aforesaid upon the garnishment summons aforesaid. Your orator insists that he ought not to be precluded or *stoped* from setting up in a Court of Equity, either of the defences herein claimed against the note of which exhibit B is a copy on account, or by reason of any proceedings upon said garnishment. Your orator also charges that the note of which exhibit A is a copy, and the judgments and all the proceedings had thereon, are absolutely void, and ought so to be declared by the honorable court, as well on account of the fraud practised upon your orator by said Nicholson in selling or proceeding to be sold to your orator the negroes aforesaid, as on account of the invalidity of the contract of the sale and purchase of said negroes by reason of the constitutional prohibition aforesaid. Your orator further charges, that the note aforesaid, of which exhibit B is a copy, was obtained by and through the fraud of said Nicholson, as well as against the constitution of this State and therefore void, and that the judgment on the garnishment aforesaid and the execution issued on said judgment, and likewise the forthcoming bond executed by your orator as aforesaid, and all the proceedings thereon, from first to last, are void, and ought so to be declared by this honorable court. All which actings and doings of the said John R. Nicholson, and the said Moses Wanzer and Jabez Harrison are contrary to equity and good conscience, and tend manifestly to injure, oppress, and defraud your orator; the premises considered, your orator prays that said John R. Nicholson, who is a non-resident of this State, and resides in the State of Arkansas, and the said Moses Wanzer and Jabez Harrison, who are also non-residents, and whose residence is unknown to your orator, may be made defendants to this bill, that they be compelled, upon their corporeal oath, full, true, and direct, and perfect answers to make, to all and singular the charges and allegations in this bill contained in as full and ample a manner as if the same were here again repeated in the form of interrogatories.

Your orator further prays, that by a decree of your honorable court, the original notes of which exhibits A and B are copies, and the judgments aforesaid rendered thereon respectively, and all the proceedings aforesaid had on them, and each of them, be *declare* null and void, and of no effect, and that said original notes, executed by your orators for said negroes, and the forthcoming bond aforesaid executed by your orator, and John H. Truly security for the delivery of the property levied upon by virtue of the execution issued upon said judgment in said garnishment case, be delivered up and cancelled, and that said John R. Nicholson, by decree of your honorable court, be compelled to refund to your orator, the amount paid by your orator on the judgment obtained by him against your orator in your honorable court, upon the note

of which exhibit A is a copy. And your orator prays, that in the mean time an injunction be granted to your orator to stay all further proceedings on the execution issued, *issued* upon said judgment on said garnishment and said forthcoming bond, and grant to your orator all such other and further relief in the premises as the nature of his case may require, and to the honorable court may seem right, and to equity belongs, &c., that process of subpœna and injunction may issue, &c., and that publication be made for said non-resident defendants, &c., and as in duty bound he will ever pray, &c.

RUCKS AND YERGER,
HUBBORD AND OTT,
Solicitors for Complainant.

UNITED STATES OF AMERICA,
Southern District of Mississippi:

Circuit Court, May Term, 1840.

Personally appeared in open court, Bennet R. Truly, the complainant in foregoing bill, and made oath that the facts stated in the foregoing as of his own knowledge are true, and those facts stated from the information of others he believes to be true.

B. R. TRULY.

Sworn and subscribed in open court, May 7, 1840.

WM. BURNS,
Clerk.

Exhibit A, referred to in the Bill.

$3,575 *Madisonville*, February 7th, 1837.

Twelve months after the first day of March next we jointly and severally promise to pay without defalcation to John R. Nicholson, or order, three thousand five hundred and seventy-five dollars for value received.

B. R. TRULY,
DENNIS BURNS,
WILLIAM SOUTHERLAND.

Exhibit B, referred to in the Bill.

BRANDON, *Miss.*, *February 1st*, 1837.

$3575.

Twelve months after date I promise to pay to the order of A. N. Robinson, thirty-five hundred and seventy-five dollars, value received, negotiable and payable at the banking-house of the Mississippi and Alabama Railroad Company, at Brandon, with ten per cent. interest after due until paid, it being for a *bona fide* loan of money.

1887.

The drawer will acknowledge notice at Madisonville. The first endorser will acknowledge notice at Livingston. The 2d endorser will acknowledge do.

Endorsement on Exhibit B.

H. W. ROBINSON,
WM. O. ALDRIDGE.

UNITED STATES OF AMERICA,
Southern District of Mississippi, Circuit Court U. S.

I, William H. Brown, Clerk of said Circuit Court, do hereby certify that the foregoing is a true and complete copy of the original bill, filed in the case therein set forth, together with true copies of the exhibits thereto, as the same now remain of record and on file in my office.

[L. S.] In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at Jackson, this 6th day of January, A. D. 1847.

WM. H. BROWN, *Clk.*
P'r CHS. H. ROGERS, *D. C.*

Exhibit C.

B. R. Truly bill sale J. H. Truly.

Received for record 7th February, and recorded 19 March, 1840.

Received of J. H. Truly, of the County of Holmes, and State of Mississippi, the sum of twelve thousand dollars, in payment of the following negroes, viz., Jacob, Phil, Alexander, Jack, Armsted, and Si, all men, between the ages of fifty and twenty-two, and Albert, Ki, and Jim, boys between the ages of eight and eighteen; also the following women and children, viz., Ruthey, and her four children, Mira, Armanda, Carolina, and William; and Mary and her two children, Prentice and Korah; Frances, and her children Alphons and Ailsey; Polly, and child Horace; also the following women and girls, viz., Minda, Isabella, Gelina, and Ninny, between the ages of thirty and ten years, all of which negroes I warrant to be sound in body and mind, and slaves for life.

Given under my hand and seal, this 5th day of February, 1840.

B. R. TRULY. [SEAL.]

Witness,
F. A. ROOP.

THE STATE OF MISSISSIPPI,
Madison County, ss.

Personally appeared before me, John T. Cameron, Clerk of the Probate Court of said county, Bennet R. Truly, who acknowledged

that he signed, sealed, and delivered the within bill of sale on the day, and for the purposes therein mentioned, as his act and deed.

[SEAL.] Given under my hand and seal of office, at Canton, this 7th day of February, A. D. 1840.

JOHN T. CAMERON, *Clerk.*

THE STATE OF MISSISSIPPI,
Madison County, sct.

I, John T. Cameron, Clerk of the Probate Court of said county, hereby certify the foregoing instrument to be a true transcript from the record of my office.

Book for deeds, G, page 510.

[L. S.] Given under my hand and seal of office, at Canton, this 22d day of January, A. D. 1847.

JOHN T. CAMERON, *Clerk.*

Bond.

THE STATE OF MISSISSIPPI,
Superior Court of Chancery.

Know all men by these presents, that we, Isaac E. Nicholson, Martha Nicholson, William Nicholson, Ira Nicholson, Sarah C. Nicholson, of full age, and David E. L. Nicholson, Mary Nicholson, and Warren P. Nicholson, minors, by their next friend, Isaac E. Nicholson, *John J. Lamar, and Alexander Robbins*, are held and firmly bound unto John R. Nicholson and Nelson Harlin, in right of his wife, in the sum of eight hundred dollars, to be paid to the said John R. Nicholson, and Nelson Harlin, and Samuel R. Sheldon, their heirs, executors, administrators, or assigns, for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, firmly by these presents, sealed with our seals, and dated the 15th day of May, one thousand eight hundred and forty-five.

The condition of the above obligation is such, That, whereas, the above bound, Isaac E. Nicholson, has this day obtained from the Honorable Robert H. Buchner, Chancellor of the State of Mississippi, an injunction to stay all further proceedings until the same can be heard and determined in the Honorable the Superior Court of Chancery of the State of Mississippi.

Now if the said Isaac E. Nicholson, in case the said injunction shall be dissolved, shall, within thirty days thereafter, well and truly pay and satisfy the said John R. Nicholson and Nelson Harlin, all damages and costs, and abide by and perform the decree of said Chancery Court, then this obligation shall be void, otherwise the same shall remain in full force and virtue.

Signed, sealed, and delivered in presence of H. A. H. Lawson, by the two last named obligors.

ISAAC E. NICHOLSON, [SEAL.]
J. J. LAMAR, [SEAL.]
A. R. ROBBINS. [SEAL.]

Injunction.

THE STATE OF MISSISSIPPI,
Superior Court of Chancery of the State of Mississippi.

To Samuel B. Sheldon, John R. Nicholson, and Nelson Harlin, greeting:—

Whereas, it hath been represented to us in our Superior Court of Chancery, on the part of Isaac E. Nicholson, Martha Nicholson, William Nicholson, Ira Nicholson, and Sarah C. Nicholson, and David E. L., Mary, and Warren P. Nicholson, minors, by their next friend, complainants, that they have lately exhibited their bill against you, Samuel B. Sheldon, John R. Nicholson, and Nelson Harlin, defendants, to be relieved touching the matters in said bill contained. We therefore, in consideration of the premises and of the allegations in said bill contained, strictly enjoin and command the said Samuel B. Sheldon, John R. Nicholson, and Nelson Harlin, under the penalty of eight hundred dollars, to be levied of your goods and chattels, lands and tenements, to our use, particularly Samuel B. Sheldon, that you absolutely refrain from removing the negro woman named Polly, and her increase, from beyond the jurisdiction of this Court, being the negro woman mentioned in complainants' bill of complaint, and that you, the said Samuel B. Sheldon, give bond, with good and sufficient security, in the penalty of eight hundred dollars, conditioned to hold said negro subject to such order or decree as may be rendered by the Court in this suit, payable to the complainant, or upon failure in entering into said bond, that you, the sheriff of Madison county, take possession of said negro, with her increase, if any, and hold the same subject to the further order of this Court, and from any further proceedings against the said complainant touching any of the matters in said bill contained, until our said Court shall make another order to the contrary.

[L. S.] Witness: The Hon. Robert H. Buckner, Chancellor of the State of Mississippi, at the Court room in the town of Jackson, the first Monday in December, in the year of our Lord one thousand eight hundred and forty-four, and of the Sovereignty and independence of the United States of America the sixty-ninth.

Issued the 16th day of May, 1845.

To the Sheriff of Madison County.

ROBERT HUGHES, *Clerk.*
By W. W. YERBE, *D. C.*

(*Indorsed.*)

Received May 17, 1845.

Samuel Hamblin, Sheriff, duly served this writ on Samuel B.

Sheldon, and have taken bond of said Sheldon, with Jesse Heard as security according to the conditions of this writ.

17th of May, 1845.

SAMUEL HAMBLIN,
Sheriff.

(*Sp'a.*)

THE STATE OF MISSISSIPPI,
Superior Court of Chancery of the State of Mississippi.

To wit: To Samuel B., John R. Nicholson, and Nelson Harlin. Greeting—For certain causes offered before us, in our Superior Court of Chancery of the State of Mississippi, we command and strictly enjoin you that, laying all other matters aside, and notwithstanding any excuse, you personally appear before a Superior Court of Chancery to be holden at the Court-room in the city of Jackson on the first Monday in June next, ensuing to answer a bill of complaint exhibited against you by Isaac E. Nicholson, Martha Nicholson, William Nicholson, Ira Nicholson, and Sarah C. Nicholson, and David C. L. Nicholson, Mary Nicholson, and Warren P. Nicholson, minors, by their next friend Isaac Nicholson, complainants in our said Court. And further to do and receive, what our said Court shall have considered of this behalf, and this you shall in no wise omit under the penalty of one hundred dollars as well the consequences that may fall thereon, and have then and there this writ.

[L. S.] Witness: The Honorable Robert H. Buckner, Chancellor of the State of Mississippi, at the city of Jackson, the first Monday in December, in the year of our Lord one thousand eight hundred and forty-four, and of the sovereignty and independence of the United States of America the sixty-ninth.

Issued the 16th day of May, 1845.

To the Sheriff of Madison County, to execute and return.

ROBERT HUGHES, *Clerk.*
By W. W. YERBY, *D. C.*

(*Indorsed.*)

Received, and duly served on Samuel B. Sheldon, 17th of May, 1845; the other defendants not found in my county.

SAM'L HAMBLIN,
Sheriff.

And afterwards, to wit, at the June Term, A. D. 1845, the following order of publication was entered in this cause, to wit:—

Order Publication.

Upon opening the complainants' bill, the court being satisfied that the defendant, John R. Nicholson, is not a resident of this

State, but resides beyond the limits thereof, and beyond the jurisdiction of this court; so that the ordinary process of the court cannot be executed upon him. It is, therefore, ordered, that unless the said defendant, John R. Nicholson, make his appearance herein on or before the next term of this court, to be held at the Court Room, in the City of Jackson, on the first Monday in the month of December next, and plead, answer or demur to the complainant's bill of complaint, otherwise the same will be taken for confessed against him, set for hearing *ex parte*, and the matters thereof decreed accordingly. And it is further ordered, that a copy of this order be published in the *Mississippi Creole*, a newspaper printed in the town of Canton, once a week for two months successively.

Proof of Publication.

THE STATE OF MISSISSIPPI,
Madison County:

Personally appeared before the undersigned, an acting justice of the peace in and for said county, John N. Montgomery, publisher of the *Mississippi Creole*, a weekly newspaper, printed and published in Canton, in said county, who having been duly sworn, deposed that the annexed advertisement of Isaac R. Nicholson, against John R. Nicholson, was published in said newspaper for eight weeks in succession in the following numbers, and at the following times, viz: In No. 1, vol. iv. Sept. 20; in No. 2, vol. iv. Sept. 27; in No. 3, vol. iv. Oct. 4; in No. 4, vol iv. Oct. 11; in No. 5, vol. iv. Oct. 18; in No. 6, vol. iv. Oct. 25; in No. 7, vol. iv. Nov. 1; in No. 8, vol. iv. Nov. 8; in No. 9, vol. iv. Nov. 15.

J. N. MONTGOMERY,
Publisher of the Mississippi Creole.

Sworn to and subscribed before me, this third day of December, A. D. 1845. Witness my hand and seal.

G. A. CAMERON, [SEAL.]
J. P.

And I, the said justice, do further certify that a file of said *Mississippi Creole*, containing said advertisement, has been produced before me, and compared with said copy, and that the same is correct and truly made.

Witness my hand and seal, this 3d day of December, A. D. 1845.

G. A. CAMERON, [SEAL.]
J. P.

And afterwards, to wit: On the third day of June, A. D. 1846, the said defendant, Samuel B. Sheldon, filed his answer, to wit:—

Answer Sheldon.

The answer of Samuel B. Sheldon to the bill of complaint of said complainants.

This defendant, reserving to himself all benefit of exceptions to said bill of complaint, for the many errors and insufficiencies therein, for answer thereto says that he has no knowledge of Evan Nicholson's death; or his being the father of complainants; or of administration of his estate being granted to Lewis Cunningham; or their division of said estate; or of James Nicholson or his death; and complainants being his heir; or of James Nicholson being the owner of the slave Polly, by virtue of the division of Evan Nicholson's estate; or the appointment of John R. Nicholson as guardian, and his running of and selling negro, and requires *strict* thereof.

This defendant further states, that he is an innocent and *bona fide* purchaser of a negro girl by the name of Mary (alias Polly) of one John H. Truly, but does not know whether it is the same mentioned in complainant's bill, and asks that his title as such may be protected. And this defendant having fully answered so much of said bill as is material necessary for him to answer, without this, &c., prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained, and as in duty bound, &c.

SAMUEL B. SHELDON.

THE STATE OF MISSISSIPPI,
Madison County:

Personally appeared before me, William McBride, a Justice of the peace in and for the county aforesaid, Samuel B. Sheldon, who makes oath that the matters and things stated in the foregoing answers of his own knowledge are true, and those stated upon the information of others he believes to be true.

SAMUEL B. SHELDON.

Sworn to and subscribed before me, this 22d May, 1846.

WM. McBRIDE, [SEAL.]
J. P.

Order of Publication.

THE STATE OF MISSISSIPPI,
Superior Court of Chancery, June Term, 1848.

ISAAC E. NICHOLSON *et al.*
vs.
SAMUEL B. SHELDON *et al.* } 3430.

Upon opening the matters of this, and it appearing satisfactorily that the defendants Nelson Harlin & Harlin, his wife, are not citizens of this State, but reside beyond the limits thereof, so that the

ordinary process of this court cannot be executed upon them; therefore it is ordered that unless the said defendants enter their appearance herein on or before the first day of the next term of this court, to be holden at the Court Room in the City of Jackson, on the first Monday in December, next ensuing, and plead, answer or demur to the said bill of complaint, several allegations thereof will be taken for confessed by them, set for hearing *ex parte*, and the matters thereof decreed accordingly. It is further ordered, that a copy of this order be published in the *Southron*, a newspaper printed in the city of Jackson, once a week for two months successively.

Proof of Publication.

THE STATE OF MISSISSIPPI,
Hinds County, ss:

I, Thomas Palmer, publisher of the newsaper entitled the *Southron*, printed at Jackson, *in in* county and State aforesaid, being duly sworn, do depose and say, that a notice of which the foregoing print is a copy, was published in said newspaper nine weeks successively, as follows: commencing in number 30 of volume viii. of the date of July 28, and ending in number 38 of volume viii. of the date of September 22, 1848.

THOS. PALMER,
Publisher of the Southron.

Sworn to and subscribed this 16th day of October, 1848, before me.

J. P. OLDHAM,
Justice of the Peace.

THE STATE OF MISSISSIPPI,
Hinds County, ss:

I, J. P. Oldham, the Justice of the Peace before whom the above affidavit was made, do certify that the newspapers containing the public notice therein specified have been produced before me, and by me compared with the copy of said notice, and with the affidavit of the said Thomas Palmer, and that they are correct and truly made.

Given under my hand and seal, this 16th day of October, 1848.

J. P. OLDHAM, [L. S.]
A Justice of the Peace of the County of Hinds.

Proof filed in the above cause in the words and figures following, to wit:—

The deposition of Alexander A. Lamar, taken by consent of parties at the Court-house in the Town of Canton, Madison County, Mississippi, on the 10th day of June, A. D. 1846, before Samuel

Scott, a Commissioner of the Superior Court of Chancery of the State of Mississippi, to be read as evidence in a certain cause now pending in said Superior Court of Chancery, wherein Isaac E. Nicholson *et al.* are complainants, and Samuel B. Sheldon, John R. Nicholson, and Nelson Harlin and wife are defendants.

The witness being of lawful age and first duly sworn, deposes and says—

1st Interrogatory by Complainant. Are you or not acquainted with the parties to the above stated case of Isaac E. Nicholson *et al. vs.* Samuel B. Sheldon *et al.*?

Answer to 1st. Interrogatory. I am acquainted with them.

2d Inter. by Same. Were you or not acquainted with one Evan Nicholson? if yea, please state when, where, and whether he is now living; and if not, when and where he died.

Ans. to 2d Inter. I was acquainted with Evan Nicholson who lived in the Cherokee Country, in the State of Alabama, and he died there, I think, some time in the years 1835 or 1836.

3d Inter. by Same. Were you or not also acquainted with all the children of said Evan Nicholson? if so, please name them.

Ans. to 3d Inter. I am acquainted with them, and their names are John R., Isaac E., Martha, Jane, James, William, Ira, Sarah C., David C. L., and Warren P. Nicholson.

4th Inter. by Same. Did or did not the ancestor, Evan Nicholson, at the time of his death, leave a considerable amount of negro property in St. Clair County, in the State of Alabama?

Ans. to 4th Inter. He did leave a good deal of that kind of property in the Cherokee Country, which has since been embraced in De Kalb County, in said State of Alabama, but administration of the estate of said Evan Nicholson was had in St. Clair County, being the nearest county to his residence at the time of his death in said Cherokee Country.

5th Inter. by Same. Do you or not know that a negro girl, Polly, became the property of James Nicholson, one of the heirs of said Evan Nicholson, on the division of the estate of said Evan Nicholson?

Ans. to 5th Inter. I was in town on the day that the division of the property of the estate of said Evan Nicholson took place; and it was admitted by all the parties, at the time, that the girl Polly became the property of said James Nicholson on division of said estate.

6th Inter. by Same. Do you or not know whether said James Nicholson is dead? if yea, please state whether he died under age, and without leaving any debt unpaid, and also without ever having been married.

Ans. to 6th Inter. He died unmarried and without owing any debt; I think he was, at the time of his death, about twenty or twenty-one years of age; he was insane at the time of his death, and had been subject to fits all his life.

7th Inter. by Same. Do you or not know that the parties complainant, Isaac E., Martha, William, Ira, Sarah C., David E. L., and Warren P. Nicholson, are the brothers and sisters of the said James Nicholson?

Ans. to 7th Inter. Yes they are.

8th Inter. by Same. Do you or not know whether said negro girl Polly was run off from the State of Alabama without authority, and sold by John R. Nicholson?

Ans. to 8th Inter. That was my understanding from general rumor.

9th Inter. by Same. Do you or not know where and in whose possession said negro girl Polly now is?

Ans. to 9th Inter. She is now here in the Town of Canton in possession of the widow Williams, to whom I suppose she was hired by Samuel B. Sheldon.

10th Inter. by Same. What do you think would be the worth of the annual hire of said girl Polly?

Ans. to 10th Inter. I suppose she would be worth eighty dollars a year.

11th Inter. by Same. Do you or not know that at the division of said estate referred to in the answer to the 5th interrogatory above, a negro boy, Josiah, fell to Ira Nicholson, and that a negro boy named Alec fell to the share of Sarah C. Nicholson?

Ans. to 11th Inter. They did, as all the parties admitted to me at the time of the division, as I have stated above.

12th Inter. by Same. Do you or not know that said negro boys, Josiah and Alec, were run off from the State of Alabama, and sold by John R. Nicholson?

Ans. to 12th Inter. I so understood from common rumor.

13th Inter. by Same. Do you know in whose possession the boys, Josiah and Alec, were about the 1st of June, 1845?

Ans. to 13th Inter. Mr. Bennet R. Truly stated to me that they were arrested out of his possession about that time; Mr. Bennet R. Truly complained that the negroes were taken from his place in the night.

14th Inter. by Same. What would be the value of the annual hire of said negro boys, Josiah and Alec?

Ans. to 14th Inter. I think that Alec is worth about a hundred and twenty, and Josiah about eighty dollars per year. And further this deponent sayeth not.

A. H. LAMAR.

The taking of the deposition was continued until Thursday, the 10th of June, 1846, when, neither the parties or witnesses being in attendance, the same was closed.

I, Samuel Scott, Commissioner of the Superior Court of Chancery of the State of Mississippi, do hereby certify that the foregoing deposition of Alexander H. Lamar was taken at the time and place

and for the purposes mentioned in the caption, and that the same was sworn to and subscribed in my presence.

Given under my hand and seal, this 11th day of June, 1846.

[SEAL.] SAM'L SCOTT,
Commissioner.

We assent that the within deposition of Alexander H. Lamar may be read as evidence in the following named cases now pending in the same Superior Court of Chancery of the State of Mississippi, viz:

Sarah C. Nicholson *v.* Bennet R. Truly *et al.*, No. 3431, and Ira Nicholson *v.* John H. Truly *et al.*, No. 3433.

B. R. TRULY,
JOHN H. TRULY,
For B. R. TRULY.

Bond.

THE STATE OF MISSISSIPPI,
Madison County.

Know all men by these presents, that we, Samuel B. Sheldon and Jesse Heard, are held and firmly bound unto Isaac E. Nicholson in the penal sum of eight hundred dollars, for the payment of which well and truly to be made we bind ourselves, *each of our heirs*, executors and administrators jointly and severally firmly by these presents, signed with our seals, and dated this 17th day of May, 1845.

The condition of the above obligation is such that whereas on the 16th day of May, A. D. 1845, an injunction issued from the office of the Clerk of the Superior Court of Chancery of the State of Mississippi, at Jackson, at the instance of Isaac E. Nicholson *et al. vs.* S. B. Sheldon *et al.*, (and particularly Samuel B. Sheldon,) that he, the said Sheldon, under the penalty of eight hundred dollars, &c., refrain from removing a certain negro woman named Polly, and her increase, to wit, Jerry and Calvin.

Now, therefore, we the said Samuel B. Sheldon and Jesse Heard (as we are above bound) do further agree and obligate ourselves, &c., to hold said slaves as above named such to such order and decree as the Chancellor may make in the above stated case, and upon conditions that said property be delivered according to the order of said court this bond is to be void, otherwise to remain in full force and virtue in law.

SAMUEL B. SHELDON, [SEAL.]
JESSE HEARD, [SEAL.]

Signed, sealed, and delivered in presence of

SAMUEL HAMBLIN,
Sheriff.

1892.

ISAAC E. NICHOLSON *et al.*
vs.
JOHN R. NICHOLSON, NELSON HARLIN AND SAMUEL B. SHELDON. } 3430

Set for hearing by complainants' solicitors on bill, answer, proof and pro con.

LAWSON & FORD.

Final Decree.

Superior Court of Chancery, December Term, 1849.

Isaac E. Nicholson, Martha, William Nicholson, Ira Nicholson, Sarah C. Nicholson, all of whom are of full age, and David E. L. Nicholson, Mary Nicholson, and Warren P. Nicholson, who are minors, and sue by their next friend, Isaac E. Nicholson, complainants, *vs.* Samuel B. Sheldon, John R. Nicholson, Nelson Harlin and wife, who are defendants.

This cause having been submitted on this day, being a day of said December Term, *term* of said court, to wit, 17th day of January, 1850, on the bill and exhibits thereto, and the answer of Samuel B. Sheldon, and proof of publication, and pro confesso taken against said John R. Nicholson and Nelson Harlin and wife, and testimony taken in the cause, and it appearing to the satisfaction of the court that the said negro Polly, with her increase in the pleadings described, belonged to James Nicholson, deceased, at the time of his death, and that he died intestate and not in anywise indebted, and that said negro, with her increase, descended and of right belonged to the said complainants, and said Nelson Harlin and wife, in right of the wife of said Nelson Harlin and the said John R. Nicholson, but it further appearing to the satisfaction of the court that the said John R. Nicholson sold said negro, and that the defendant, Samuel B. Sheldon, is an innocent and *bona fide* purchaser of said negro and her increase, and thereby acquired the interest and title of said John R. Nicholson in and to the same, and it further appearing that the said James Nicholson at the time of his death left ten brothers and sisters as his heirs at law, to wit, said complainants and said Harlin's wife, and the said John R. Nicholson, the said John R. Nicholson having sold his interest and title to said negro and her increase as aforesaid, and it further appearing that an equal division of said slave and her increase can not be effected between said heirs and said Sheldon without a sale thereof—it is therefore ordered, adjudged, and decreed by the court, that eight-tenths of said negro and her increase belong to said complainants, one-tenth to each of them, one-tenth to Nelson Harlin and wife, in right of the wife of said Nelson Harlin, and one-tenth to the said Samuel B. Sheldon, by virtue of his purchase as aforesaid, and that said negro and her increase be sold to effect an

equal division thereof between said heirs, each receiving one-tenth of the proceeds of the sale on a credit of six months, before the Court House door, in the Town of Canton, in the County of Madison, State of Mississippi, to the highest bidder, public notice being first given according to the law regulating sheriff's sales of personal property, of the time and place of such sale, the purchaser giving bond and approved security for the purchase-money, a lien being retained on said slave and her increase for the payment of the same.

It is further ordered, that William S. Baily be appointed commissioner to carry out this decree according to the directions herein contained, and that he report to this court how his has executed this decree.

And it is further ordered, adjudged and decreed, that the complainants recover of the defendants, Samuel B. Sheldon and John R. Nicholson, the costs in this cause to be taxed, and that execution may issue therefor.

STEPHEN COOKE.

17*th January*, 1850.

THE STATE OF MISSISSIPPI.

I, J. T. Simms, Clerk of the Superior Court of Chancery of said State, do hereby certify that the above and foregoing fifty-five pages contain a full, true and complete transcript of the record and proceedings now on file in my office, in the case of Isaac E. Nicholson *et al.* against Samuel B. Sheldon *et al.*, No. 3430 of the files of said court.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at the Court Room, in the City of Jackson, this eleventh day of May, A. D. 1850.

[L. S.] J. T. SIMMS, *Clk.*
By E. P. RUSSELL, *D. C.*

Proof.

BENNET R. TRULY
vs.
MOSES WANZER.

In Chancery in the United States Circuit Court for the Southern District of Mississippi.

Interrogatories to be put to Thomas Griffin, put to Thomas Jeptha Hollingsworth, Augustus W. Robinson, John Lamar, and Samuel B. Sheldon, witnesses for complainants, the answers to which will be read in evidence on the hearing of the above-named cause.

Interrogatories to Griffin.

Interrogatory 1st: Are you acquainted with the complainant, Bennet R. Truly, and were you acquainted with John B. Hubert in his lifetime?

Interrogatory 2d: If you know anything about a sale of slaves by said John R. Hubert to Bennet R. Truly, the complainant, state fully and at large all you know on that subject, the number of slaves, with names, age and sex, the price or prices at which sold, when was the sale made, was it for cash in hand, or on a credit; if the latter, on what credit, and how was the payment secured or to be secured?

Interrogatory 3d: Were said slaves brought into the State of Mississippi for sale, by whom, and about what time?

Interrogatory 4th: Did you at any time negotiate with John R. Hubert for the purchase of said slaves, and if so, what did you learn from him respecting them, and how and from whom he acquired them, and anything during or after such negotiation, said by him respecting his sale of them or his intention to sell them to B. R. Truly?

Interrogatory 5: Was B. R. Truly garnisheed on account of the debt contracted for said slaves or any part of it, and by whom?

Interrogatory 6: What has become of said slaves; have they or any of them been sued for and recovered, and by whom and from whom?

Interrogatory 7: Were you intimately acquainted with the transaction of B. R. Truly, and had he any with said Hubert, but in the purchase of said negroes?

Interrogatory 8: Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

Interrogatories to Jeptha Hollingsworth.

Interrogatory 1st: Do you know the complainant, Bennet R. Truly, and did you know John R. Hubert in his lifetime?

Interrogatory 2d: Did you know anything of a note made by Bennet R. Truly to A. W. Robinson, and by him indorsed for the sum of three thousand five hundred and seventy-five dollars or thereabouts, dated on or about the 1st of February, 1837, payable twelve months after date?

Interrogatory 3d: Was or was not such note held by John R. Hubert? If yea, did he forward it for collection, and if so, when and to whom?

Interrogatory 4: What was the consideration of said note? state it fully.

Interrogatory 5: If you know anything of the sale of slaves by Hubert to R. Truly, state fully and distinctly all you do know or have heard Hubert say on the subject, and when he said what he did say.

Interrogatory 6: Answer the 8th interrogatory above propounded to Thomas Griffin, as fully as if here repeated to you.

Interrogatories to Augustus W. Robinson.

Interrogatory 1st: Do you know anything of a note drawn by B. R. Truly, of Madison county, to you for the sum of $3,575, dated 1st February, 1837, and payable twelve months after date, and which was for his benefit? If so, please state whether said note was drawn for the purpose of being delivered to John R. Hubert, late of said county, as a payment to him by said Truly.

Interrogatory 2d: Do you know or can you state the consideration passing between said Hubert and said Truly, for said note? If so, state fully and particularly what that consideration was.

Interrogatory 3d: Did you have any knowledge of the purchase by said Truly of said Hubert, of a certain number of slaves on or about February, 1837? If so, state all the circumstances connected with said purchase, number of negroes, names, price of each, by whom they were brought to the country, in what manner they were to be paid for.

Interrogatory 4: Did you reside in the same neighborhood with said B. R. Truly and said John R. Hubert, about the year 1837, and were you acquainted with their business transactions? If so, state what contracts, if any, were made between them about that time.

Interrogatory 5: Were you at any time the indorser of any other note made by said B. R. Truly, for $3,575, except the one already mentioned in answer to the foregoing interrogatories?

Interrogatory 6: Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

Interrogatories to John Lamar.

Interrogatory 1st: Do you know the parties to this cause?

Interrogatory 2d: State whether you know anything of the slaves Aleck or Alexander, Si or Josiah, and Polly or Mary, named in the bill of the complainant in this behalf.

Interrogatory 3d: By whom were they brought into this State, and if you know, state to whom they were sold, at what time and for what price, and in what manner were they paid for?

Interrogatory 4: Have those negroes or either of them been claimed since that time by other persons, and if so, by whom, and under what circumstances?

Interrogatory 5: Has such claim been the foundation of any suit

or suits? and if so, state so far as may be known to you the result of such suits.

Interrogatory 6: If such suits have resulted in final decrees for the complainants therein respectively, state in what manner the said decrees have been satisfied, if satisfied at all, and what has become of them.

Interrogatory 7: Were said negroes or either of them surrendered in pursuance of said decree? and if the decree for hire has been in any manner satisfied, please state in what manner.

Interrogatory 8: Were you at any time the agent of the complainants in said suits or either of them? and if so, state whether you had full authority to act for them; and if so, state whether in the prosecution of said suits the obtaining of said decrees or either of them, and the payment or satisfaction of them or either of them there was any collusion or combination between yourself as such agent, and said B. R. and J. H. Truly or either of them, or by any other person for or on their behalf.

Interrogatory 9: Had the complainants in said suits any other agent except yourself, in the management of the same, and was your action in relation thereto open and fair and in good faith, or was it intended to accomplish any purpose of fraud or indirection?

Interrogatory 10: Answer the 6th interrogatory put to A. W. Robinson, as full as if the same was here repeated to you.

BENNET R. TRULY,
JOHN H. TRULY.

1*st Dec.* 1848.

Cross-interrogatories propounded to Thomas Griffin by defendants, who rely and insist on their objections to interrogatories propounded to said witness by complainants:—

1. State whether or not the matters stated by you in your answer to the second direct interrogatory, are all known to you of your own knowledge to be so. If not, state which of said matters are known to you of your own knowledge, and which of them you derived from the information of others. State how you know them; what means of knowledge you have had, and why you happen at the date of your answer to know and recollect the matters so stated by you. Also state whether or not you are positive as to names, dates, amounts, &c. as to the matters so stated by you; if so, how do you know them to be so? Also answer and state in like manner as to each and all the matters stated by you in your answer to the several other direct interrogatories, and specify particularly each of said matters that are known to you of your own knowledge, and what from information of others, and why and how you happen to know them; state particularly your means of information, recollection, &c. &c., and particularly as to names, dates, and amounts.

2. If, in answer to the fifth direct interrogatory, you say said

Truly was garnisheed on account of said debt, state why and how you know, and whether or not you ever saw the proceedings in garnishment to which you refer, and if so, when and where. State fully all you know, and specify what you know of your own knowledge of the matters so stated by you, and what from the information of others.

3. If, in answer to seventh direct interrogatory, you say said Truly had no other transaction with said Hubert, state how you know it and your means of information. If you shall say there was any other transaction between them, please state all the particulars of any and every such transaction, stating what it was about, and giving names, dates, amounts, &c. If any notes were given, describe them particularly. State whether or not you have heard said Bennet R. or John H. Truly say or admit that there was any such other transaction. If so, what and when?

4. State whether or not said Hubert, or Fletcher W. Hubert, were partners in business. If so, when and where, and how long they continued to be so, and to what their business extended.

5. State whether or not said Bennet R. Truly has sold any of the negroes mentioned or referred to by you in your answers to the direct interrogatories propounded to you, and if so, when he so sold; and state what statements you have heard said John H., or Bennet R. Truly make in relation thereto. State also whether or not said Bennet R. is insolvent, and if so, how long he has been so.

6. State whether or not you know anything of any plan, agreement, or attempt of the said Bennet R., or John H. Truly, or either of them, to evade or defeat the judgment in favor of the defendants, Wanzer & Harrison, enjoined in this suit, or any claim of theirs, and whether or not you have heard any statement of either said Bennet R., or John H., in relation to any such plan, agreement, or attempt. Whether the same related to any suit or suits by certain heirs of Nicholson or otherwise; if so, state the same fully, and all particulars. State, if you know, when said Trulys, or either of them, were first informed of any claim to any slaves on the part of said heirs, or have heard either of said Trulys make any statement in relation thereto. If so, state the same fully, giving dates, &c.

7. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If so, set forth the same fully and at large, in your answer.

VAN WINKLE & POTTER,
Sols. for Defendants.

Cross-interrogatories to be propounded to Jeptha Hollingsworth, who rely and insist upon their objections to interrogatories propounded by complainants.

1. If, in answer to second direct interrogatory, you say you know anything of such a note, please describe such note particularly.

2. State whether or not the matters stated by you in your answers to the second direct interrogatory propounded by complainants are all known to you of your own knowledge to be so; if not, state which of said matters are known to you of your own knowledge, and which of them you derived from the information of others. State how you know them; what means of knowing you have had, and why you happen at the date of your answer to know or recollect the matters so stated by you. Also state if you are positive as to names, dates, amounts, &c., as to the matters so stated by you, and if so, how do you know them to be so? State particularly as to your means of information, recollection, &c. If you have not in your said answers stated fully and particularly the dates, amounts, names, &c. to the matters as stated by you, please now state them, and state why and how you know and recollect them; whether you so know or recollect them of your own knowledge, or from information of others.

3. State whether or not you know of any other transaction between said B. H. Truly and John R. Hubert. If so, please state all the particulars of any and every such transaction, stating what it was about, and giving names and dates, amounts, &c. If any note or notes were given, describe them particularly. State whether or not you have heard said Bennet R., or John H. Truly, say or admit that there was any such other transaction; if so, what and when.

4. State whether or not said Hubert and Fletcher W. Hubert were partners in business. If so, state when and where, and how long they continued to be so, and to what their business extended.

5. State whether or not said Bennet R. has sold any negroes. If so, what negroes, when, and to whom; state names, dates, and particulars, and what statements you have heard Bennet R. and John H. Truly make in relation thereto, and when. State also whether or not said Bennet R. is insolvent, and if so, how long he has been so.

6. State whether or not you know anything of any plan, agreement, or attempt of said Bennet R. and John H. Truly, or either of them, to evade or defeat the judgment in favor of Wanzer and Harrison enjoined in this suit, or any claim of theirs, and whether or not you have heard any statement of either said Bennet R. or John H. Truly, in relation to any such plan, agreement, or attempt, whether the same related to any suit or suits by certain heirs of Nicholson, or otherwise. If so, state the same fully and particularly. State also whether or not *you*, when said Trulys, or either of them, were first informed of any claim to any slaves on the part of said heirs; or have heard either of said Trulys make any statement in relation thereto. If so, state the same fully, giving dates, &c.

7. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

VAN WINKLE & POTTER,
Sols. for Defendants.

Cross-interrogatories to be propounded to Augustus W. Robinson by defendants, who rely and insist on their objections to interrogatories propounded by complainants.

1. If you answer the first interrogatory in the affirmative, please state fully how you know and why you recollect the matters stated by you, and particularly as to names, dates, amounts, &c.

2. If you say in answer to second direct interrogatory that you know the consideration, please state fully how you know and why you recollect the matters related by you, and particularly as to names, dates, amounts, &c.

3. If in answer to third direct interrogatory, you say you know of such purchase, please state fully how you know and why you recollect the matters stated by you, and particularly as to names, dates, &c.

4. State whether or not the matters stated by you in your answers to the several direct interrogatories propounded by complainants are all known to you of your own knowledge to be so. If not, state which of said matters are known to you of your own knowledge to be so; if not, state which of said matters are known to you of your own knowledge, and which of them you derived from the information of others. State how you know them, what means of knowing you have had, and why you happen, at the date of your answer, to know and recollect the matters so stated by you; also state if you are positive as to the names, dates, amounts, etc., to the matters so stated by you, and, if so, how do you know them to be so. State particularly as to your means of information, recollection, &c.; if you have not in your said answers stated fully and particularly the dates, amounts, names, etc., as to the matters so stated by you, please now state them, and state why and how you know and recollect them, and whether you so know or recollect them of your own knowledge or from information of others.

5. State whether or not you know of any transaction between said B. R. Truly and John R. Hubert—if so, please state all the particulars of any and every such transaction, stating what it was about, and giving names, dates, amounts, etc. If any note or notes were given, describe them particularly. State all you have heard said Bennet R. or John H. Truly say or admit there was any such other transaction; if so, what and where?

6. State whether or not you ever indorsed any other note or bill made or drawn by Bennet R. Truly; if so, describe fully and par-

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ticularly all such other notes, bill or bills, giving names, dates, amounts, etc. State also when, where, and why you so indorsed and in whose presence, and what disposition made of the same, etc., giving all particulars of the transaction.

7. State whether or not Hubert and Fletcher W. Hubert, partners in business; if so, state when and where and how they continued to be so, and to what their business extended.

8. State whether or not Bennet R. Truly has sold any of the negroes mentioned or referred to in your answers to the direct interrogatories propounded to you; if so, when he so sold; and state what statements you have heard said Bennet R. or John H. Truly make in relation thereto. State also whether or not said Bennet R. is insolvent, and, if so, how long has he been so?

9. State whether or not you know anything of any plan, agreement, or attempt of the said Bennet R. or John H. Truly, or either of them, to evade or defeat the judgment in favor of Wanzer and Harrison enjoined in this suit or any claim of theirs, and whether or not you have heard of any statement of either said Bennet R. or John H. Truly in relation to any such plan, agreement, or attempt, whether the same related to any suit or suits by certain heirs of Nicholson or otherwise; if so, state the same fully, and all particulars. State whether or not you know when said Trulys or either of them were first informed of any claim to any slaves on the part of said heirs, or have heard either of said Trulys make any statement in relation thereto; if so, state the same fully, giving dates, &c.

10. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? if yea, set forth the same fully and at large in your answer.

VAN WINKLE & POTTER,
Solicitors for Def'ts.

Cross-interrogatories propounded to John Lamar by defendants, who rely and insist on their objections to the interrogatories propounded by complainants.

1. If you answer the second direct interrogatory in the affirmative, state why and how you know what you state, and why and how you know the said slaves to be the same named in said bill of complaint, and whether or not you have ever read or heard read the said bill.

2. If you state in your answer to third direct interrogatory by whom said slaves were brought into this State, or to whom sold, &c., please state how you know and your means of information.

3. If you say any of said slaves were claimed by any person, state when said Bennet R. or John H. Truly were first informed of such claim, and what statements you have ever heard either of

them make as to such their knowledge. If so, state particulars and dates, &c.

4. State whether or not said Bennet R. Truly has sold any of said slaves; and if so, when he so sold; and state what statements you have heard said Bennet R. or John H. Truly make in relation thereto. State also, whether or not said Bennet R. is insolvent, and if so, how long he has been so.

5. State whether or not the matters stated by you in your answer to the several direct interrogatories propounded to you by complainants are all known to you of your own knowledge, and which of them you derived from the information of others. State how you know them, what means of knowing you have had, and why you happen, at the date of your answer, to know and recollect the matters so stated by you. Also state if you are positive as to dates, names, &c., and why and how you know and recollect them, and whether you so know or recollect them of your own knowledge or from the information of others.

6. State whether or not the heirs of Evan Nicholson, or any of them, ever received, in the State of Alabama or elsewhere, any payment, indemnity, or security, from John R. Nicholson, or any person or persons, for said slaves or any of them on account of any claim of said heirs in relation to said slaves, on account of any act of said John R. Nicholson in relation thereto, or as guardian, agent or otherwise for said heirs or any of them. If yea, state the same fully and at large, giving all particulars.

7. State whether or not you know anything of any plan, agreement, or attempt of said Bennet R. and John H. Truly, or either of them, to evade or defeat the judgment in favor of Wanzer & Harrison, enjoined in this suit, or any claim of theirs, and whether or not you have heard any statement of the said Bennet R. or John H. Truly in relation to any such plan or agreement, whether the same related to any suit or suits by any of said heirs of Nicholson or otherwise. If so, state the same fully, and all particulars. State, also, whether or not said Bennet R. or John H. Truly ever invited or instigated any suit or suits for any of said slaves. If so, state all particulars. State, also, whether or not said Bennet R. or John H. Truly ever proposed to let decree go by default, and without defence in any of said suits spoken of by you. If so, state particulars and all facts tending to show an attempt to defeat the claims of Wanzer & Harrison, or defraud them, or insure a recovery of said slaves, or any of them, by any person or persons.

8. State if you know the parties complainants in the suits referred to in the direct Interrogatories. If so, state how old they are and where they have resided.

9. Do you know or can you set forth any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, that may be material to the subject of this

your examination or the matters in question in this cause. If yea, state the same fully and at large in your answer.

VAN WINKLE & POTTER.

Interrogatories to be propounded to O. N. P. Davis, of the State of Mississippi, the answers to which will be read in evidence on behalf of complainants in the above stated cause which is now pending in the Circuit Court of the United States at Jackson.

Interrogatory 1. Are you acquainted with the parties to this suit, and were you acquainted with John R. Hubert in his lifetime?

Interrogatory 2d. State where B. R. Truly and said Hubert resided in the years 1836 and 1837, or about that time.

Interrogatory 3d. Did you have any knowledge of any trade or other transaction between said Truly and said Hubert about that time? if so, state fully and particularly what it was, when it took place, and what was the subject-matter of it.

Interrogatory 4th. If you shall say that you have any knowledge of the purchase of a lot of negroes by the said Truly of said Hubert, state whether you were acquainted with the negroes, what were their names, ages, &c., and how many of them there were, what was the price of each, and what the aggregate price of the whole?

Interrogatory 5th. State how it is that you happen to recollect the negroes Aleck or Alexander, Si or Josiah, and Mary or Polly; please to describe them minutely.

Interrogatory 6th. Do you know, of your own knowledge, or did you ever hear said Hubert say in what manner said Truly paid for said negroes or secured the price to the said Hubert?

Interrogatory 7th. Do you know from whom said Hubert acquired the said above-named negroes previous to selling them to said?

Interrogatory 8th. Were you a neighbor *to to* said Truly about that time, and were you familiar with his affairs? if so, state whether he had any other, and, if so, what transaction unto said Hubert beside the one to which you have referred.

Interrogatory 10th. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause or either of them, or that may be material to the subject of this your examination, or the matter in question in this cause? if yea, set forth the same fully and at large in your answer.

B. R. & J. H. TRULY,
By MAYES & CLIFTON,
their Solicitors.

Cross-Interrogatories to be propounded to O. H. P. Davis by defendants, who insist and rely on their objections to interrogatories propounded by complainants.

1st. If you answer the third interrogatory propounded by complainants in the affirmative, please state fully how you know and why you recollect the matters stated by you, particularly as to names, dates, amounts, &c.

2d. If in your answer to the fourth interrogatory propounded by complainants you say you have any knowledge of any such trade, please state fully how you know and why you recollect the matters stated by you, and particularly as to names, dates, amounts, &c.; state when it was made and were you were at the time.

4th. State whether or not the matters stated by you in your answers to the several intelligences propounded by complainants, are all known to you of your own knowledge to be so. If not, state which of said matters are of your own knowledge, and which of them you derived from the information of others. State how you know them, what means of knowing you have had, and why you happen at the date of your answer to know and recollect the matters so stated by you. Also state if you are positive as to names, dates, amounts, &c., as to the matters so stated by you, and if so how do you know them to be so, stating particularly as to your means of information, recollection, &c. If you have not, in your said answers to direct interrogatories, stated fully and particularly the dates, names, amounts, &c., as to the matters so stated by you, please now state them, and state why and how you now know and recollect them, and whether you so know and recollect them of your own knowledge or from information of others.

5th. If in answer to 8th Inter. propounded by complainants, you say there was any other transaction between said parties, please state all the particulars of any and every such transaction, stating what it was about, and giving names, dates, amounts, &c. If any note or notes were given, describe them particularly. State, also, whether or not you have heard said Bennet R. or John H. Truly say or admit that there was any other transaction between said parties. If so, what and where.

6. State whether or not John B. Hubert and Fletcher W. Hubert were partners in business. If so, state when and where, and how long they continued to be so, and to what their business extended.

7. State whether or not said Bennet R. has sold any of the slaves spoken of by you in any of your answers to interrogatories propounded by complainants. If so, which of them, and to whom. State names, dates, and particulars. State what statements, if any, you have heard said Bennet R. or John H. Truly make in relation thereto. State also, whether or not said Bennet R. is insolvent; and if so, how long has he been so?

8. State whether or not you know anything of any agreement or attempt of said Bennet R. or John H. Truly, or either of them, to evade or defeat the judgment in favor of Wanzer & Harrison, en-

joined in this cause, or any claim of theirs; and whether or not you have heard any statement of either said Bennet R. or John H. Truly in relation to any such plan, agreement, or attempt—whether the same related to any suit or suits by certain heirs of Nicholson, or otherwise. State the same fully, and all particulars. State also, whether or not you know when said Trulys, or either of them, were first informed of any claim or claims on the part of said heirs, or have heard either of said Trulys make any statement in relation thereto. If so, state the same fully, giving dates, &c.

9. Do you know, or can you set forth any other matter or thing which may be of benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, state the same fully and at large in your answer.

VAN WINKLE & POTTER,
Solicitors for Defendants.

UNITED STATES OF AMERICA,
SOUTHERN DISTRICT OF MISSISSIPPI,
Circuit Court United States:

I, William H. Brown, Clerk of said court, do hereby certify that the foregoing thirteen pages contain true copies of the original interrogatories and cross-interrogatories filed in the case therein stated in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at Jackson, this 26th day of December, A. D. 1848.
[L. S.]

W. H. BROWN,
Clerk.
Per CHAS. H. ROGERS,
Deputy Clerk.

UNITED STATES OF AMERICA,
Southern District of Mississippi, to wit:

The President of the United States to Thomas Shackleford, greeting: Know ye, that trusting to your fidelity and provident circumspection in diligently examining Thomas Griffin, Jeptha Hollingsworth, Augustus W. Robinson and John Lamar, and O. H. P. Davis, in a certain cause now depending in the Circuit Court of the United States for the District aforesaid, wherein Bennet R. Truly and John H. Truly are complainants, and Moses Wanzer and Jabez Harrison are defendants, you are requested, at such certain days and places as you shall appoint, to call and cause the said witnesses to come before you, and them diligently examine on oath, and their examination into the Circuit Court aforesaid you distinctly and plainly set, together with this writ enclosed, with all convenient speed.

Witness, the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States at Jackson, the 1st Monday in November, in the year of our Lord one thousand eight hundred and forty-eight, and in the 73d year of the Independence of the United States of America.

[L. S.]

Issued the 26th day of December, 1848.

W. H. BROWN,
Clerk.

Per CHAS. H. ROGERS,
Deputy Clerk.

Objections.

CIRCUIT COURT OF THE UNITED STATES,
Southern District of Mississippi:

B. R. & J. H. TRULY
vs.
WANZER & HARRISON. } In Chancery.

The defendants object to interrogatories propounded by complainants to Thomas Griffin, as follows:

To first clause of 3d int., because it is a leading question.

To first clause of 4th int., for same reason.

To first clause of 5th int., for same reason.

To second clause of 6th int., for same reason.

To seventh int., for same reason.

Defendants also object to any inquiry to answers of said witness touching any statement or admission of said Hubert.

Defendants object to interrogatories propounded by complainants to Jeptha Hollingsworth, as follows:

To 3d int., because it is a leading question.

They also object to any inquiry to or answer of said witness touching any statement or admission of said Hubert.

Defendants object to interrogatories propounded by complainants to Augustus W. Robinson, as follows:

To so much of 1st int. as states that the note was for benefit of Truly, and to the last clause thereof as being a leading question and suggestion of the answer desired.

To first clause of 2d int., because it avers or suggests as a fact, that a consideration did pass between said Hubert and Truly for said note.

To so much of 3d int. as suggests the date of the supposed sale.

To 5th int., because it is a leading question.

Defendants also object to any inquiries to and answer of said witness tending to impeach the consideration of said note.

Defendants object to interrogatories propounded by complainants to John Lamar, as follows:

To first clause of 4th int., because it is a leading question, and to

residue because it relates to matters provable only by record evidence.

To first clause of 7th int., because it is a leading question.

To 6th int., because it is a leading question.

To 7th int., because it is a leading question.

Defendants object to interrogatories propounded by complainants to O. H. P. Davis, as follows:

To 4th int., because it suggests the reply desired to 3d interrogatory.

To 5th int., because it suggests the names of the negroes inquired after in the 4th interrogatory.

To the 6th int., because it suggests as a fact, that said Truly purchased said negroes of said Hubert.

To the 7th int., because it suggests as a fact, that said Hubert acquired said negroes and sold them to said Truly.

Defendants also object to any inquiries to or answer of said witness touching any statement or admission of said Hubert.

VAN WINKLE & POTTER,
Solicitors for Defendants.

Depositions.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss.

Bennet R. Truly's, Madison county:

Be it remembered, that on the sixteenth day of January, A. D. eighteen hundred and forty-nine, before me, Thomas Shackleford, a commissioner duly appointed by the Circuit Court of the United States in and for the Southern District of Mississippi, under and by virtue of the Act of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States," passed Feb. 20, 1812, and the Act of Congress, entitled "An Act in addition to an Act entitled 'An Act for the more convenient taking of affidavits and bail in civil causes depending in the courts of the United States,'" passed 1st March, 1817, and the Act passed Sept. 24, 1789, entitled "An Act to establish the Judicial Courts of the United States," and by virtue of the power and authority in me vested by the annexed commission and interrogatories thereto attached, issued from the office of the Clerk of the Circuit Court of the United States for the Southern District of Mississippi, on the 26th day of December, A. D. 1848, I caused to appear Jeptha Hollingsworth personally before me at the place aforesaid, a witness of sound mind and of lawful age, for the complainants, in a civil suit now depending in the Circuit Court of the United States in and for the Southern District of Mississippi, in the chancery side thereof, wherein Bennet R. Truly and John H. Truly are complainants, and Moses Wanzer

and Jabez Harrison are defendants; and the said Jeptha Hollingsworth being by me first carefully examined and cautioned and sworn on the Holy Evangelists of Almighty God to testify the whole truth and nothing but the truth to the annexed interrogatories to be propounded to him in his answers to the same, did depose and say as follows:

To the first annexed interrogatories propounded to him by complainants, the deponent answering, says: That he knows Bennet R. Truly, and was acquainted with John R. Hubert in his lifetime.

To the second interrogatory propounded by complainants, deponent answering, says: that in the year 1837 deponent was in business, merchandising with his brother-in-law, Hamilton McCauly, in Madison County, at Doaks Stand, and during the month of September, 1837, his said brother-in-law McCauly, received through the post-office a letter, the same marked (*A*), and asks to be made a part of his answer to this interrogatory, which letter contained the notes therein mentioned; he distinctly recollects that it contained a note of B. R. Truly's for the amount of $3,575 00, but cannot say to whom it was payable, or when due; but recollects distinctly that the same was not due, but thinks that it fell due early in the ensuing year; that deponent was present with his brother-in-law, McCauly, when he presented the said letter (*A*) to the said Bennet R. Truly, and the said note of $3,575$\frac{00}{100}$, for the purpose of giving notice to the said Truly that he, the said McCauly, was holder of the same for the purposes specified in the said letter; although the note was not due at the time of presentation, as before stated. Mr. Bennet R. Truly proposed to my said brother-in-law, McCauly, to discharge or pay off the said note with the negroes he contracted the debt for, and offered to give up to the said McCauly said negroes, which negroes he declined receiving, on the ground that he had no authority to receive property in payment of the debt.

To the 3d interrogatory propounded by complainants, deponent answering, says: That he does not know that said note was held by John R. Hubert, other than by the knowledge he obtained through the said letter marked *A*, and referred to in his answer to 2d interrogatory in chief; the balance of this interrogatory is fully answered by deponent in his answer to the said 2d interrogatory in chief by complainants.

In answer to the 4th interrogatory in chief, deponent says he does not know of his own knowledge what the consideration of the said note was.

In answer to the 5th interrogatory in chief, deponent says that he knows nothing of the sale of slaves from Hubert to said Truly of his own knowledge, and never heard said Hubert say anything about selling negroes to B. R. Truly.

In answer to 6th interrogatory in chief, which is the 8th interrogatory in chief propounded to Thomas Griffin, deponent says:

That within a few months after his brother-in-law received the said letter *A*, he, the said McCauly, was garnisheed by some garnishment issued by some person from some court at Jackson, Mississippi (by whom and from what court issued, does not now recollect), calling upon him, said McCauly, to answer what effects he had of said John R. Hubert; and that the said McCauly went down to Jackson to answer the garnishment, and the said McCauly informed this deponent that he had answered the garnishment, and had surrendered said note with his answer; further that his brother-in-law, McCauly, died in the year A. D. 1840. And deponent further states that he does know of any matter or thing that could be of advantage or benefit to the parties at issue in this cause, or either of them, or may be material to the subject of this his examination.

Answer of Jeptha Hollingsworth to the annexed cross-interrogatories propounded to him by defendants' counsel to interrogatories propounded by complainants.

Deponent to the 1st cross-interrogatory propounded by defendants, answering, says: That all he knows relation to the said note is fully answered in his answer to 2d interrogatory by complainants; says all that he knows of said note is that the said letter *A* referred to as aforesaid, contained a note of Bennet R. Truly's for $3,575 00, which was *not then due;* but the date when due, and to whom payable, deponent cannot say more particularly than he has before stated in his answer to said 2d interrogatory by complainants.

In answer to 2d cross-interrogatory propounded by defendants, deponent answering says: that in explanation of his answer to the 2d direct interrogatory, he took the letter *A*, referred to as aforesaid, out of the post-office, and the same was opened in his presence by the said McCauly, and that he saw the said note; that he was his partner, and had the means of knowing his business transactions; and that the letter (*A*) has had the effect of refreshing his memory; and that he had access to all his brother-in-law's correspondence of a private or business character; and that he had acted for his brother-in-law in giving notice and presenting the note of $186 53 to said Arnett; that he could not have been so positive as to the amount of the note of $3,575 00 of Bennet R. Truly, but for the said letter *A;* that he is perfectly satisfied that the said note of Bennet R. Truly was for the sum of $3,575; that the amount of said note corresponded with the statement in the said letter. Deponent only relies upon his recollection as to when due; and does not know the date. The conversation and statement made relative to the presentation of the said note to said Bennet R. Truly, to give him notice as requested in the said letter *A*, deponent states took place in the presence of this deponent; that he and his brother-in-law were riding together, going to a church one Saturday, and the said Bennet R. Truly either overtook deponent and his brother-in-law, McCauly, *or they overtook* him; can't say exactly

how it was; but deponent knows that they met on the road, and the said McCauly had the letter *A* with him, and he presented the note to said Truly with the letter *A*, for the purpose of giving him the notice; and then the said Truly made the proposition to give up negroes as before stated, in payment of the debt as stated in his said answer to 2d interrogatory in chief, all of which took place in his presence; the said McCauly declined receiving the negroes for the reasons assigned as stated in his said answer to 2d interrogatory in chief.

In answer to the 3d cross-interrogatory propounded by defendants, deponent answering, says:—

That when the said letter *A* and note was presented to the said Bennet R. Truly, as aforesaid, by said McCauly, the said Bennet R. Truly stated to the said McCauly, that the said note was part of the consideration, or purchase-money for a lot of negroes, purchased by the said Bennet R. Truly from the said John R. Hubert; and that since that time, and probably at that time, for the said Bennet R. Truly stated that he was willing to give up at the time of the conversation in the course of a month or so, so much of the property as would pay that note at the prices he had purchased the same from the same Hubert; that he has heard him, Truly, since state that he gave seven thousand dollars for a lot of negroes purchased from said John R. Hubert, and that he gave two notes for the same, and that this note of $3,575 was for half of the purchase-money; that there was some interest included in the notes. I have seen store accounts paid off by Mr. Bennet R. Truly to the firm of Fletcher & J. R. Hubert, which were in the possession of Mr. Bennet R. Truly; I know of no other transaction between Bennet R. Truly, or John H. Truly, and the said John R. Hubert.

In answer to 4th cross-interrogatory, deponent says, that from seeing accounts for goods made out in the name of T. W. & J. R. Hubert, in the year 1835 and 1836, deponent supposes they were partners in business in merchandising.

In answer to 5th cross-interrogatory propounded by defendants, answering, says:—

That he has heard Bennet R. Truly say that he had sold a negro to Mr. Sheldon, of Canton, Miss., by the name of Mary, as well as he now recollects, but is not positive, which he expected to be sued for, or that he would have to pay for, or something of the sort; that the title of the same was defective, as he was informed; his recollection is indistinct about this conversation; that he had heard Bennet R. Truly say he had sold a negro boy at Vicksburg; what his name was, or age, he cannot say; that he had heard him say he had sold a lame boy; whether this lame boy was the same or another sold at Vicksburg deponent cannot say. Several years previous to this time, in 1837 to 1840, there were from 15 to 25 slaves, large and small, on the place where said Bennet R. Truly resides, and does not know, but thinks some of the same negroes

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are now on the said Truly's place. As to his insolvency he knows nothing from his own knowledge, but from conversation with said Truly, who has stated heretofore, that if this suit was decided in his favor he would probably be worth something, would have a claim on his brother John H. Truly, but recently he has stated that other judgments or claims, or something of the sort, had sprung up against him, which he did not anticipate, and that in any event he would be ruined.

In answer to 6th cross-interrogatory propounded by defendants, answering, says: That he never heard of any plan or agreement to defeat the suit of Wanzer and Harrison by the said John H. Truly or Bennet R. Truly, relative to a suit, or any suit by heirs of Nicholson. Deponent says, he heard the said Bennet R. Truly say some seven or eight years since, that he was informed by Mr. Green Rogers, that he knew (Rogers) that Truly had some negroes that belonged to some minor heirs in Alabama; that he also heard the said Rogers say the same thing about the same time, and, using his language, "that B. R. Truly had purchased negro property and would get no title for them."

In answer to the last and 7th cross-interrogatory propounded by the defendants, deponent answering, says: That he does not know of anything which may be of benefit or advantage to the parties at issue in this cause, or either of them, and that may be material to the subject of this his examination, or the matters in question in this cause.

And further this deponent sayeth not.

J. S. HOLLINGSWORTH.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss.

Bennet R. Truly's, *Madison County.*

Be it remembered, that on the sixteenth day of January, A. D. eighteen hundred and forty-nine, before me, Thos. Shackleford, a Commissioner, appointed by the Circuit Court of the United States in and for the Southern District of Mississippi, under and by virtue of the Acts of Congress, entitled "An Act for the more convenient taking of affidavits and bail in civil causes depending in the Courts of the United States," passed Feb. 20th, 1812, and the Act of Congress entitled, "An Act in addition to an Act, entitled 'An Act for the more convenient taking of affidavits and bail in civil causes, depending in the Courts of the United States,'" passed 1st March, 1817, and the Act passed Sep. 24, 1789, entitled, "An Act to establish the Judicial Courts of the United States," and by virtue of the power and authority in me vested by the annexed commission and interrogatories thereto attached, issued from the office of the Circuit Court of the United States for the Southern District of Mississippi, on the 26th day of December, 1848, I caused to appear

John J. Lamar, personally before me at Bennet R. Truly's aforesaid, a witness of sound mind and lawful age, for the complainant in a certain suit now depending in the Circuit Court of the United States in and for the Southern District of Mississippi, in the Chancery side thereof, wherein Bennet R. Truly and John H. Truly are complainants, and Moses Wanzer and Jabez Harrison are defendants. And the said John Lamar being by me first carefully examined, cautioned, and sworn on the Holy Evangelists of Almighty God, to testify the whole truth and nothing but the truth, to the annexed interrogatories to be propounded to him, in his answers to the same did depose and say:—

To the first direct interrogatory propounded by complainants answering, sayeth: That he is well acquainted with the complainants Bennet R. Truly and John H. Truly, but *does not* the defendants.

To the 2d interrogatory in chief by compl. deponent answering, says: That he does know the negro slaves Aleck or Alexander, Si or Josiah, Polly or Mary.

To the 3d interrogatory by compl. deponent answering, saith: That he was informed by Isaac Nicholson that he was with his brother John R. Nicholson, when they were being brought out to Mississippi from Alabama, and that he was (the said Isaac Nicholson) with his brother John R. until the sale of the said negroes by the said John R. Nicholson, who had the control of the said negroes; does not know to whom they were sold, or how they were paid for.

To the 4th inter. in chief by compl's deponent answering, saith: That the negro man slave Si or Josiah has been claimed by Ira C. Nicholson, the negro man said Aleck or Alexander has been claimed by Sarah C. Nicholson, and the negro Mary aforesaid has been claimed by all the heirs of Evan Nicholson, deceased. That bills in Chancery had been filed in the Superior Court of Chancery of the State of Mississippi, at Jackson, against Bennet R. and John H. Truly aforesaid, by the said Ira O. Nicholson, for the negro man Si or Josiah aforesaid; by the said Sarah C. Nicholson, against the said Bennet R. Truly and John H. Truly, for the said negro man Aleck or Alexander, and by all of the heirs of said Evan C. Nicholson, deceased, for the said negro woman Mary or Polly, against Samuel B. Sheldon, of Canton, Mississippi.

In answer to 5th interrogatory by complainants, deponent answering, sayeth:—

That such claim has been the foundation of suits against the said Bennet R. Truly, and said John H. Truly, and said Samuel B. Sheldon, as set forth in deponent's answer to direct interrogatory 4th, which he refers to for his answer to this. As to the result of the said suits, deponent says that the negro man Si, or Josiah, has been decreed by the chancellor of said court to be the property of said Ira O. Nicholson, and the said negro man Alexander, or Alick, has been decreed by the same to be the property of the said Sarah C.

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Nicholson. The bill for Mary, or Polly, is still pending undetermined.

In answer to 6th interrogatory by complainants in chief, deponent answering, says: The decree for the negro Si, or Josiah, has been satisfied, by the delivery up to deponent the said negro Si, or Josiah, by the said Bennet R. Truly and said John H. Truly, and the decree for the negro Alick, or Alexander, has been satisfied by the payment of Mary (for the value of the said negro Alick) to the said deponent.

In answer to interrogatory 7th by complainants, deponent answering, says: That there was a decree for hire of the said negroes Alexander, or Alick, and said Si, or Josiah, made by the said chancellor aforesaid, which deponent should have answered in his answer to interrogatory 5th, and the said decree for hire has been satisfied by the payment of the same to this deponent in negroes, viz: Ralph, his wife Sarah, and a boy by the name of Arthur, and a girl by the name of Ellen.

In answer to 8th interrogatory propounded by complainants, deponent answering, says:—

That he had a full power of attorney from the said Ira O. Nicholson and Sarah C. Nicholson, to act as their agent and attorney; to act for them in the settlements of the said claim against the said Trulys for the negroes Si, or Josiah, and Alexander, or Alick, and that in pursuance of said power of attorney he settled with the said Bennet R. Truly and John H. Truly as before stated in his answer to interrogatory 7th by complainants, and denies all collusion or combination with the said Bennet R. Truly and John H. Truly, in settling the said decrees with them or with any other person or parties for them, or on their behalf, and that the same was done *bona fide.*

In answer to interrogatory 9th by complainants, deponent answering, says: That there was no other agents for said claimants, and deponent's action in settling in many and taking of said negroes in settling the decrees aforesaid, was open and fair, and in good faith, and not for the purpose of accomplishing any fraud or any other object than that justice should be done to the said claimants.

In answer to the 10th interrogatory propounded by complainants, deponent answering, says: That he does not know of anything which would be of advantage or benefit to either of the parties at issue in this suit, except unless the statement of the time when the said negroes was removed from Alabama. The said negroes were clandestinely removed from the State of Alabama in the year 1836, about the month of August or September in said year, 1836, common rumor stated they were run off by John R. Nicholson, and deponent was so informed by his brother Isaac Nicholson, who came out with his brother and with the said negroes Si, Alick, and Mary. That deponent removed to the State of Mississippi in the year 1838, in the fall thereof, and that about 14 months after deponent was in

Mississippi, he was informed, by the Rev. Green M. Rogers, that the negroes aforesaid, claimed as aforesaid by the said Nicholson's heirs, were owned by the said Bennet R. Truly, and that in the fall of the year 1843, deponent saw the said negroes for the first time after their removal from Alabama; that he knew the said negroes in Alabama before their removal to this State.

Answer of the said John Lamar to the annexed cross-interrogatories propounded to him by defendants.

Deponent, in answer to the first cross-interrogatory of defendants, answering, says:—

That he knew the said negroes named in his answer to the 2d interrogatory by complainants before their removal from Alabama, and that they belonged to the said Evan Nicholson's heirs in the State of Alabama, found in the possession of the said Bennet R. and John H. Truly, and that the same were sued for as aforesaid, and decrees obtained as aforesaid, and the same settled as aforesaid.

In answer to 2d cross-interrogatory, deponent answering, says: That he has stated that Isaac Nicholson, the brother of John R. Nicholson, informed him that he came out with his brother John R. in company with the said negroes, and that he said his brother John R. ran off said negroes from Alabama, and that rumor proclaimed John R. Nicholson as the man who ran off said negroes from Alabama, and the same was never contradicted, to the knowledge of this deponent, in Alabama. As to whom they were sold by the said John R. Nicholson, deponent has stated that he knows nothing about the sales.

In answer to the 3d cross-interrogatory propounded by defendants, answering, says:—

That this deponent says that he informed the said Bennet R. Truly, in 1841 or 1842, that the said slaves belonged to minor heirs in Alabama, and that he had no title to the said negroes; but the said negroes were not formally and legally demanded until the filing the said bill against the said Bennet R. and John H. Truly, by the said Ira O. and Sarah C. Nicholson, in the said Superior Court of Chancery, in the spring of the year 1845, as well as he now recollects of the time of filing of the same.

In answer to the 4th cross-interrogatory, deponent answering, states: That the said Bennet R. and J. H. Truly informed deponent that they, the said Alick and Si, or Josiah, had been sold to the said John H. Truly; as to the time of the sale to the said John H. Truly deponent at this time does not now recollect. Whether they ever informed deponent of the time of the sale as to the insolvency of the said Bennet R. Truly, deponent can only say that he is satisfied that nothing could be made out of the said Bennet R. Truly by law as far as he knows.

In answer to the 5th cross-interrogatory, answering, deponent says: That his information about the negroes Alick, or Alexander,

Si, or Josiah, and Mary, or Polly, was derived from deponent's actual knowledge of the negroes aforesaid in Alabama. Deponent says he is positive as to the names of said negroes, and the time of their removal from Alabama. That he has been acting as their agent and attorney in fact, for the said parties, claimants to the said negroes aforesaid, ever since the filing of their bills as aforesaid, and that what information he has had as to the negroes mentioned he has fully stated in his answers to the direct interrogatories.

In answer to the 6th cross-interrogatory, deponent answering, says: That so far as he knows, the heirs of Evan Nicholson never have received, in the State of Alabama or elsewhere, any indemnity or payment or security from John R. Nicholson, or from any person or persons for the said slaves, on account of the claims of the said heirs to the said slaves, on account of any act of the said John R. Nicholson, except what they have received by the decrees referred to as aforesaid by this deponent as their agent.

In answer to the 7th cross-interrogatory of defendants, deponent, answering, says: The deponent knows of no attempt or plan or agreement entered into with any one for the purpose of defeating the claims of the said defendants, Wanzer and Harrison, claim against the said Bennet R. Truly and John H. Truly. The said Bennet R. Truly and the said John H. Truly never did instigate or invite a suit from the said heirs of Nicholson or the said slaves, and that deponent, acting as deputy sheriff, came to the residence of the said Bennet R. Truly and took the negroes Si or Josiah, Alick or Alexander out of the possession of said Bennet R. Truly by the order from the Superior Court of Chancery issued in said suits. Deponent does not know if the said complainants, B. R. and John H. Truly, even proposing to let a decree go by default in said suits of the heirs of Nicholson; none was made to this deponent by the said complainants, and knows of no other similar proposition to others for the purpose of affecting the said Wanzer and Harrison's claim against complainant B. R. Truly, or for any other purpose.

In answer to the 8th cross-interrogatory of defendants, answering, deponent says: He is personally acquainted with them, and they have resided in De Kalb County, Alabama; does not know the ages of the said complainants in the said suits herein-before referred to in his examination in chief from his own knowledge.

In answer to the 9th cross-interrogatory by defendants, deponent, answering, says: That he does not know of any matter or thing that would be of benefit or advantage to the parties at issue in the said suit, unless the statement of the payment of the money, and delivery of the negroes herein-before stated to this deponent by the said John H. Truly in satisfaction of the said decrees. Deponent says that the terms of the settlement were agreed upon by this deponent and the said Bennet R. Truly, and, after the agreement of the terms, the said complainant, Ben. R. Truly, stated to

this deponent that his brother John would pay the money, and deliver the negroes on his account, and that he, J. H. Truly, would have to account to the said B. R. Truly for what he paid, as he, the said John H., had funds of the said B. R. Truly in his hands, placed there to indemnify his said brother John H. for his liability on account of the said decrees. This deponent had a conversation with the said Jno. H. Truly which corroborated the statements of the said Bennet R. Truly in relation to the facts stated in this deponent's answer to the 9th interrogatory by defendants, and does not know of anything more that may be material to this his examination that would be of advantage to either of the said parties to this suit.

And further this deponent saith not.

J. J. LAMAR.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:

Bennet R. Truly's, *Madison County.*

Be it remembered that, on the 16th day of January, A. D. 1849, before me, Thos. Shackleford, a commissioner appointed by the Circuit Court of the United States for the Southern District of Mississippi, under and by virtue of the several acts of Congress as herein before referred to in the caption to the deposition, Lamar and Hollingsworth, &c., and by virtue of the power and authority in me vested by the annexed commission and interrogatories thereto attached, issued from the office of the clerk of the Circuit Court of the United States for the Southern District of Mississippi on the 26th day of December, A. D. 1848, I caused to appear Thomas Griffin personally before me at Bennet R. Truly's aforesaid, a witness of sound mind and of lawful age, for the complainants in a civil cause now depending in the Circuit Court of the United States in and for the Southern District of Mississippi, on the chancery side thereof, wherein Bennet R. Truly and John H. Truly are complainants, and Moses Wanzer and Jabez Harrison are defendants.

And the said Thomas Griffin being by me first carefully examined, cautioned, and sworn on the Holy Evangelists of Almighty God to testify the whole truth and nothing but the truth, to the annexed interrogatories to be propounded to him, in his answers to the same did depose and say as follows:—

To the first direct interrogatory, propounded by complainants, answering says: That he is acquainted with Bennet R. Truly, and was acquainted with the said John R. Hubert in his lifetime.

In answer to 2d interrogatory in chief by complainants, deponent says, that in the year 1836, about the month of December, deponent was in the town of Madisonville, in the said County of Madison, and the said John R. Hubert called upon deponent, and

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asked him if he did not wish to purchase a lot of negroes; took this deponent to his yards and showed deponent five negroes, three negro men, a young woman, and a boy; the ages of the negro men would range from about twenty to twenty-five years; the girl looked like she was about 16 or 17 years, and the boy about 8 or 9 years old. And deponent asked the said Hubert the price of the said negroes, and, as well as deponent now recollects, Hubert asked seven thousand dollars for the said negroes. Deponent thought the price too high. Hubert offered to give him time on them; thinks that he offered to sell them on one or two year's credit. Deponent told Hubert that he did not think he would be able to give security on his notes for them; and told him if he could sell them in the meantime that he might do so, and left for home; that, after the expiration of about a week from that time, deponent went back to Madisonville, with the intention of making a proposition to Hubert to buy them, finding that the deponent could give security for the purchase-money; that when he got to Madisonville he called on the said John R. Hubert, about the purchasing of the said negroes, and the said Hubert informed deponent that he had sold the said negroes to the said complainant, Bennet R. Truly, and that he, Truly, had taken them home. Said Hubert further informed deponent that B. R. Truly aforesaid had not given his notes for the purchase-money, and he had executed no bill of sale to the said B. R. Truly for the said negroes, and seemed to be anxious to get deponent to take the property, and accordingly this deponent came up to the residence of the said Bennet R. Truly, and examined the negroes, and informed the said Bennet R. Truly of what the said Hubert had said to deponent about this deponent purchasing the said negroes, if the said Truly was willing. Bennet R. Truly seemed to be willing to surrender the negroes. Deponent took three of the said negroes over to deponent's house, viz: Sam, Si, or Josiah, and the boy Peter; the man Alick or Alexander, and Mary refused to come over to the house of deponent; the deponent had these negroes, Sam, Si, and Peter at the house of deponent a day and then returned them back to the said complainant, B. R. Truly. Deponent does not know when the said John R. Hubert and the said Truly closed their contract; he cannot say whether he paid cash or got them on time; only knows that Hubert told him, deponent, that said B. R. Truly had not given him, Hubert, his, Truly's, notes for the purchase-money for the said negroes. When he, Hubert, saw deponent the second time, in Madisonville, when he requested deponent to give his notes for the said negroes, and that he, Hubert, would execute a bill of sale for the said negroes; then deponent knows that the negroes were not returned to the said Hubert, but that the said Bennet R. Truly retained the negroes. What security he gave, if any, deponent does not know; presumes Truly did give security, because security was demanded of the said Hubert of this deponent. The names of the negroes were Sam,

aged about twenty, Alick, between twenty and twenty-five, Si, or Josiah, about the same age, Mary, about sixteen or seventeen, and Peter, about eight or nine years of age. The negroes sold by the said Hubert to said B. R. Truly, he, deponent, knows to be the identical negroes shown to deponent in Madisonville by the said Hubert, and he saw them all at the residence of the said Truly, when he came to his house for the purpose of taking the trade off his, said B. R. Truly's hands, as herein before stated, and has seen them all at the said Bennet R. Truly's house since that time.

In answer to 3d interrogatory, deponent says: That he does not know when the said slaves were the said negroes even introduced into this State for sale, or by whom.

In answer to 4th interrogatory, by complainants, deponent, answering, says: That as regards his negotiations about the purchase of the said negroes from said Hubert, which was not consummated, is fully set forth in deponent's answer to 2d interrogatory in chief of compl's; the said Hubert did not inform the said deponent how or from whom he, the said Hubert, had acquired them, neither before or after the sale of the said negroes from the said Hubert to the said B. R. Truly.

In answer to 5th interrogatory of compl's, deponent answering, says: So far as he knows anything about a garnishment against the said B. R. Truly for the said debt, of his own knowledge he knows nothing.

In answer to 6th interrogatory of compl's, deponent answering, says: That he does not know anything of his own knowledge what has become of the said negroes, only from rumor.

In answer to the 7th interrogatory of compl's, deponent answering, says: That he has been a long time intimate with the said Bennet R. Truly, and was well acquainted with any transaction entered into by him of any importance, and was better acquainted with him and his business transactions than with any other neighbor or their transactions, and if he, said Truly, had made any other contract of any magnitude or importance, with the said John R. Hubert, he would certainly have been informed of it by the said Bennet R. Truly, and confidently states that he does not believe that said B. R. Truly had any other transaction of importance with the said John R. Hubert; he may have purchased goods and made accounts with the mercantile house of F. W. & J. R. Hubert in said town of Madisonville.

In answer to the 8th interrogatory in chief of complainants, deponent answering, says: That he does not know of any matter or thing that would be of importance or benefit or advantage to the parties at issue in this cause, unless the following statement will be; deponent says that soon after he had the last interview with the said John R. Hubert the said Hubert's chief and principal clerk, by the name of Noble, who has since died, informed or rather congratulated this deponent by stating to him that he had made

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a lucky escape in not purchasing the said negroes; that there was something wrong about the said negroes; that he had heard the "young man" say to Hubert, aforesaid: You must sell these negroes, I cannot. Deponent did not know to whom the said Noble referred to; the impression was made by the statement of Noble, on the mind of deponent, that some fraud had been practised by the said John R. Hubert on said Bennet R. Truly.

The answer of Thomas Griffin to the cross-interrogatories propounded by defendants.

In answer to the first cross-interrogatory deponent answering says: That the answer to this interrogatory is fully answered in his answer to the 2d interrogatory in chief, by complainant, and that what he answered in the same he knows from his own knowledge to be so. The matters set out in his answer to the said 2d interrogatory in chief by complainants, as to the transaction about the negotiation referred to, he states from his own knowledge, as he sets the same forth. The whole of his said answer explains itself, and he cannot be more full, but will state that he is positive as to the names of the said negroes, and of the year in which he had proposed to purchase the said negroes; he recollects from these facts deponent moved to Madison County, in the year 1832, and in the year 1833 deponent managed his own farm; during the years 1834 and 1835, Jordan Moore overseed for the said deponent, and in the year 1836, one John Wright, (not positive as to his Christian name,) and that soon after the contemplated purchase of the negroes from the said John R. Hubert, this deponent purchased negroes from the said Fletcher W. Hubert, and from a "fuss" with one of the said negroes and the said Wright, the deponent turned the said Wright off; from these facts he knows the year when the purchase was made by the said B. R. Truly of the said negroes from the said Jno. R. Hubert. As to the names of the negroes, he was informed of their names when he came up to see them, when he intended purchasing them, and having took three of them home with him as aforesaid, and from seeing the same negroes at the farm of said Bennet R. Truly, for some 8 or 9 years, he cannot be mistaken as to their names and identity. In conclusion, in answering this interrogatory, deponent states fully in his answers to direct interrogatories, what facts he knows of his own knowledge, and those from others, and refers to the same.

In answer to the 2d cross-interrogatory of defendants, deponent answering says:—

That he has answered the 5th interrogatory in chief; that he knows nothing of the said garnishment from his own knowledge, and declined saying anything about it.

In answer to the 3d cross-interrogatory by defendants, deponent answering says: That he, from his intimacy with the said Bennet R. Truly, he would have known if there was any other transaction

of moment or importance and magnitude, between the said John R. Hubert and the said Bennet R. Truly; he has heard the said Bennet R. Truly say, he had purchased goods, and had made two small accounts, which he had paid; does not recollect the dates of the accounts.

To the 4th cross-interrogatory by defendants, deponent answering says: That John R. Hubert and Fletcher W. Hubert were in a small business of merchandising, in the town of Madisonville, in the year 1835 and 1836, and up to the time last aforesaid, were in a small business, but in the spring of the year 1836, deponent thinks they purchased largely of goods at the north, and had done business up to the time they sold out, just before they ran off from the State of Mississippi.

In answer to the 5th cross-interrogatory of defendants, deponent answering, says: That he has heard the said complainant, Bennet R. say, that he had sold two of the negroes, Peter and Sam; thinks complainant, B. R. Truly, did not own the said negroes Peter and Sam, more than a year or so; that the said John H. Truly informed this deponent, that he was indorser for the said Bennet R. Truly on some large debts, and the said deponent advised the said John H. Truly to buy the property of the said Bennet R. Truly, to secure himself against liabilities he said he was under for B. R. Truly; that the said Bennet R. Truly and John H. Truly called upon deponent to witness and to sign certain documents presented to him, which they said was the papers of the conveyance or sale of the property of Bennet R. Truly to the said John H. Truly; that the said Bennet and John H. Truly were then on their way to Canton, Madison Co. This deponent did not examine the contracts of sale, and can't say what they contained, nor can he say what time the said transaction took place, but thinks it was in the year 1840 or 1841, or thereabout; can't say what property was specified in the said sale or papers of transfer, but presumes it contained all the property of the said Bennet R.; that the said John H. Truly took off to Holms county the property of said B. R. Truly, and kept the same there some two years, when the same was brought back to Madison county, aforesaid, again. As to the insolvency of the said Bennet R. Truly, deponent cannot say whether the said Bennet R. Truly is insolvent or not, and cannot answer specifically, he may or he may not be insolvent.

To the 6th cross-interrogatory of defendants, deponent answering, says: That he knows of no plan to defeat the claim of Wanzer & Harrison, entered into by or between the said Bennet R. and John H. Truly, and does not know of any attempt or agreement with the said Nicholson's heirs, or with any other person for that purpose; that the said John H. Truly has repeatedly stated to deponent that he wanted the matter with Wanzer & Harrison, and the said Bennet R. Truly, settled some way or other, and the deponent advised the said John H. Truly not to settle the said debts; that the said John

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H. Truly seemed to be restless and unhappy, and wanted his mind at rest about it. Deponent advised John H. Truly not to interfere if the said Bennet R. Truly had a valid defence, and as the matter was in the law, that the best plan was to let the law settle it; that the said John H. Truly has more than a half dozen times proposed to go and settle the matter by compromise if he could, and would have done so, probably, but for the persuasion of the deponent, and from what deponent had heard, deponent supposes that the said Bennet R. had a just and righteous defence to the said claim of Wanzer & Harrison, and if he paid the said debt of Bennet R. Truly, claimed by Wanzer & Harrison, he might do the said Bennet R. Truly great injustice, he having the money of the said B. R. Truly in his hands, to indemnify him against him, and that he should not pay it out without he was compelled to do so by the law.

In answer to the last and 7th cross-interrogatory by defendants, deponent answering, says: That he does not know of anything or other matter that would be of benefit or advantage to the parties at issue in this cause, or either of them, that may be material to the subject of this his examination, or of the matters in question in this cause.

And further this deponent saith not.

THOMAS GRIFFIN.

UNITED STATES OF AMERICA,
Southern District of Mississippi, Canton, Madison County, ss:

Deposition of O. H. P. Davis, a witness for complainant, produced, sworn, and examined on the twenty-second of January, A. D. eighteen hundred and forty-nine, at the office of the undersigned commission of affidavits, &c. of the Circuit Court of the United States for the Southern District of Mississippi, in the town of Canton aforesaid, duly commissioned, &c. by the said Circuit Court of the United States, and by virtue of the annexed commission issuing from the office of the Clerk of the Circuit Court of the United States, on the 26th December, 1848, to Thomas Shackleford, the undersigned commissioner, &c directed for the examination of witnesses in a certain cause depending in the said court, in the chancery side thereof, wherein Bennet R. Truly and John H. Truly are complainants, and Moses Wanzer and Jabez Harrison are defendants.

The said O. H. P. Davis, of the county of Leake, in said State, and of lawful age, being produced, duly sworn upon the Holy Evangelists of Almighty God, and examined on behalf of the said complainants, deposes as follows, to wit:—

For answer to the first interrogatory of complainants to said commission annexed and propounded to him, deponent answering, says: That he is acquainted with Bennett R. and John H. Truly, complainants, but does not know the defendants; was acquainted with John

R. Hubert when he lived in Madisonville, Mississippi; never has seen him since he left the State of Mississippi.

To the 2d interrogatory propounded by complainants, deponent answering, says: That complainant, Bennet R. Truly, resided where he now resides, in the county of Madison, about a mile from the place where deponent resided in the years 1836 and 1837. The said John R. Hubert resided in Madisonville, Madison county, aforesaid.

To the 3d interrogatory propounded by complainants, deponent answering, saith: That in the spring of 1837 this deponent was at Madisonville aforesaid for the purpose of purchasing goods of the said Hubert; that deponent invoiced with the said Hubert some six or seven thousand dollars' worth of goods, the amount he purchased, or thereabout, with others, and that when he came to execute his notes for the same, the said Hubert wished this deponent to give his notes, payable and negotiable in bank, and to leave the name of the bank where negotiable blank. This arrangement deponent did not like, and wished the same made payable at the Brandon Bank. As an inducement, deponent supposes, to get him, deponent, to accede to his proposition, he, Hubert, stated to him that others had given him notes in that way, and that among them, that Bennet R. Truly had executed his notes to him in that manner (leaving the name of the bank where negotiable blank) which he had given to him for the purchase of the negroes that Hubert had sold to B. R. Truly aforesaid, taking it for granted that deponent knew that he had (B. R. Truly) purchased negroes from the said John R. Hubert, which was a fact of general notoriety in the neighborhood of Mr. B. R. Truly's. The said Hubert also spoke of the negroes, whom deponent knew from having seen them at the residence of Mr. B. R. Tuly's, and asked if he did not think that cercertain ones, calling the names of them, were not likely, &c. &c.—good seamstress, &c.

To the 4th interrogatory propounded by complainants, deponent answering, saith, that he was acquainted with the said negroes sold as aforesaid by said Hubert to the said Bennett R. Truly, and that he had seen the said negroes before the conversation with the said Hubert, as related above, and that one was *nam* Alick, or Alexander, about 20 or 25 years of age, copper color and woolly hair; Si, or Josiah, known to deponent as Si, about the same age of Alick, black complexion; Sam, aged about the same age, black; Mary, aged about 16 or 17, copper color; and a lame boy (does not recollect his name at this time) about 8 or 9 years of age—not certain as to his age. This statement refers to the time when they, the said negroes, were purchased from said Hubert in the year 1836; there were five, as herein-before stated; does not know what the price of either of the said negroes was, or the aggregate price to be paid for the whole of them to the said Hubert.

In answer to 5th interrogatory in chief, by complainants, depo-

nent answering, saith, that he knew Alick, Si, and Sam, and the boy, from having seen them about the farm of the said Bennet R. Truly; and having seen them, Alick and Si, at the place of this deponent, and at his store in Williamstown, he knew the said Alick and Si well, but did not know Sam or the boy so well; Mary, or Polly, he knows from having seen her at the house of the said B. R. Truly's, being a house servant of his for the years 1837 and 1838—description of said negroes herein-before made in deponent's answer to 4th interrogatory in chief, and refers to his answer to that for his answer to so much of the interrogatory 5 requiring a description of the three negroes therein named.

In answer to 6th interrogatory in chief, deponent answering, saith: That John R. Hubert informed deponent, as he has stated in his answer to 3d interrogatory, that B. R. Truly had given him notes payable in bank, &c., to secure the purchase-money for the said negroes, with the particular bank left blank; what the time they had fixed for the payment, or the amount of either, deponent does not know; this deponent only knows, that the said John R. Hubert informed deponent that the said B. R. Truly executed notes for the purchase-money for the said negroes, and left the bank where payable blank, amount of the same, the times when payable, or how secured, deponent does not know anything of his own knowledge.

In answer to 7th interrogatory in chief, by complainants, deponent answering, says: That he does not know from whom the said John R. Hubert purchased the said negroes previous to his sale of the same to said B. R. Truly, only from rumor.

In answer to 8th interrogatory in chief, by complainants, deponent for answer saith: That he became acquainted with the said complainant B. R. Truly in 1835, and lived near neighbor to the said Bennet R. during the years 1836 and 1837, and was familiar with him, and as in these years and times any trade of any magnitude either for negroes or lands made in this county were subjects of common conversation; that deponent does not suppose that any trade of any size was made in his neighborhood that he did not hear of or know of; that he was intimate with the affairs of said Bennet R. Truly, and knows of his buying the negroes aforesaid, from the statements of Mr. Truly before he had the conversation with the said Hubert; recollects when the negroes were brought home to the house of the said B. R. Truly. Deponent knows nothing of any other transaction between the said Bennett R. Truly and the said John R. Hubert; if he had purchased other property, negroes, or land, from the said Jno. R. Hubert, he would have heard of it, he supposes; but he is certain that he never heard of any other transaction between the said Jno. R. and B. R.; the said B. R. Truly may have had some accounts with the said Jno. R. and F. W. Hubert in Madisonville.

In answer to the last and 10th interrogatory propounded by

complainants, answering, says: That he does not know of any other matter or thing that would be of advantage to the parties at issue in this cause, or that would be material to the subject of this examination, except and unless the fact that it was a subject of common conversation in the neighborhood of Mr. B. R. Truly about the time of the purchase aforesaid, that the same had been made from the said John R. Hubert, and that afterwards, some considerable time subsequent to the purchase, it was a subject of common rumor and general notoriety that there was defect in the title to the said negroes; what the defect was, deponent does not know—never saw any legal proceedings claiming them; but there being a defect in the title some way, was a matter of notoriety in the complainant, B. R. Truly's neighborhood, that the same belonged to orphan children.

The answer of O. H. P. Davis to the cross-interrogatories propounded by defendants to the interrogatories in chief of complainants.

To the 1st cross-interrogatory of defendants propounded to said deponent, deponent answering, saith: says that all he knows about the trade is stated in his answer to 3d interrogatory of complainants; that he has stated he did not know the amount of the purchase-money for the said negroes; amount of the notes or when due, or dates of the same; knows that his transaction with the said Hubert took place in the spring of 1837; for deponent merchandised in the town of Williamstown with the goods purchased as aforesaid from the said Hubert; recollects also from the notes he executed to the said Huberts for the said goods purchased of the firm of F. W. & J. R. Hubert; the said Jno. R. Hubert was the acting and business man; deponent had nothing to do with the said F. W. Hubert personally in his transactions in the purchase of said goods; deponent refers to his answer to 3d interrogatory as showing how he knows anything of the trade from Hubert.

In answer to 2d cross-interrogatory by defendants, deponent answering, says: That he refers to his answer to the 3d interrogatory in chief for his answer to this interrogatory; states there fully all he knows of the trade, so far as the knowledge of the same was derived from the said John R. Hubert; and refers to his answer to the 4th inter. in chief for the balance of the answer to this inter.; but states that he recollects, distinctly recollects the negroes from having seen them at the house of the said Bennet R. Truly, and the fact of its being a subject of general conversation in the neighborhood at the time; why he recollects the time of the related conversation and the time of the coming of the negroes aforesaid, to the house of said Bennet R. Truly; deponent will state that he had seen them soon after they arrived at his house, the place where he now resides, and where he resided before moving to the place he now occupies; that he is positive (from the fact that deponent had seen

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the negroes in the farm at work, and the servant-girl about the house) that he saw them in the year 1836; he has stated herein-before why he recollects this transaction about his, deponent's purchase of goods from said Hubert.

In answer to 4th cross-interrogatory, deponent answering, says: That the matters stated from his own knowledge in his answers to the several interrogatories in chief, he has stated them fully; he knows the negroes aforesaid from his own knowledge; having seen them at the residence of B. R. Truly, as stated before; knows nothing of the trade for them, only as stated herein-before from the information of John R. Hubert, B. R. Truly, and from common rumor; deponent has stated that he knew the negroes from his seeing them at the place, and from his being a near neighbor of the said B. R. Truly's, and from the fact of deponent's being intimate and on familiar terms with the said B. R. Truly; he recollects now these circumstances herein-before related, that the same is in great measure impressed upon his mind from subsequent transactions growing out of the purchase of said goods, having been sued for the money in the said notes, &c.; that he is not positive and has not stated at what precise time in 1836 that the said negroes came to the house of said Truly's, he cannot tell the month or day of month; deponent recollects names of the negroes, as stated, from having seen them, the three, Si, Alick, and Mary, often when he was a neighbor of B. R. Truly, and that Hubert spoke of them to deponent in the said conversation herein, in his examination referred to; having answered this inter. fully, refers to his previous answer as explanatory of this answer.

In answer to 5th cross-inter. deponent answering, saith: That he does not know of any other transaction between the said John R. Hubert and the said B. R. Truly, except as before stated.

In answer to 6th cross-inter. by defendants, deponent answering, says: That the said F. W. & J. R. Hubert were partners in business in merchandising, in the town of Madisonville, aforesaid; knows of no other partnership of theirs, other than in mercantile business in 1836 and 1837, until they left Miss.; if they were partners in any other kind of business, deponent did not know of any, and never heard of any other, to the best of his recollection, at this time.

In answer to the 7th cross-interrogatory by defendants, deponent answering, says: That he knows nothing of his own knowledge, or from any information communicated to deponent by the said Bennet R. Truly and the said Jno. H. Truly about the sale of any of the said negroes herein-before mentioned.

In answer to th cross-interrogatory propounded by defendants, deponent answering, says: That he knows nothing of any plan to defeat the suit of Wanzer & Harrison, growing out of suits or a suit of the heirs of Nicholson, or otherwise; only has heard from rumor that there was a defect in the title of the said negroes; what time he heard it does not now recollect.

In answer to the 9th cross-interrogatory of defendants, deponent answering, saith: That he knows nothing of any other matter and thing that would be of advantage or benefit to the parties at issue in this cause, or material to his examination, or the matters in question in this cause.

And further this deponent saith not.

O. H. P. DAVIS.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:
Canton, Madison County.

I, Thomas Shakleford, a Commissioner duly appointed by the Circuit Court of the United States for the Southern District of Mississippi, under and by virtue of the several Acts of Congress as herein-before recited, &c., do hereby certify, that on the sixteenth day of January, A. D. eighteen hundred and forty-nine, at the house of B. R. Truly's, in the county of Madison, aforesaid, the place of taking the depositions as appears by the captions thereof, I was attended by John J. Lamar, Jeptha Hollingsworth, and Thomas Griffin the witnesses, and the said witnesses were by me carefully examined and cautioned, and sworn to testify the truth, the whole truth, and nothing but the truth, in their answers to the annexed interrogatory propounded by them, and their several depositions were by me reduced to writing in the presence of each witness, and after carefully reading them to the said witnesses, they subscribed the same in my presence. I further certify, that on the 22d day of the same month, January, 1849, I was attended by the said witness, O. H. P. Davis, at my office in Canton, Madison County, aforesaid; and the said witness was by me carefully examined, cautioned and sworn, to testify the truth, the whole truth, and nothing but the truth, to the interrogatories annexed, and to be propounded to him; and the deposition or answers to the annexed interrogatories was by me reduced to writing in the presence of said witness, and after carefully reading the same to the said witness, he subscribed the same in my presence. I have retained the said several depositions in my possession for the purpose of sealing up, directing, and delivering to the court for which they were taken. I further certify, that I am not of counsel or attorney to either of the parties in said depositions mentioned, or in any way interested in the event of said civil suit appending between Bennet R. Truly and John H. Truly, complainants, and Moses Wanzer and Jabez Harrison, defendants.

In testimony whereof, I have hereunto set my hand and affixed my private seal (having no seal of office) this 22d day of January, A. D. 1849.

THOS. SHAKLEFORD, [SEAL.]
U. S. Com. for C. C. U. S., South. Dis., Miss.

Fees for executing this com's $30, paid by comp't.

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Exhibit A.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:
Canton, Madison County.

Personally appeared before the undersigned Commissioner, &c., appointed by the Circuit Court of the United States for the Southern District of Mississippi, Samuel B. Sheldon, who being by me duly sworn, deposeth and saith, that he is well acquainted with the handwriting of John R. Hubert, and states that the annexed letter, dated 17th July, 1837, signed John R. Hubert, and directed to Hambleton McOrly, Esq., Williamstown, Madison County, Miss., is in the handwriting of the said John R. Hubert; said letter is post-marked Madisonville, Miss., Sept. 16th, 1837.

S. B. SHELDON.

Sworn to and subscribed before me on the 22d day of January, 1849.

THOS. SHAKLEFORD,
U. S. Comm'r, &c. &c.

Madisonville, 17th July, 1837.

HAMBLETON MCORLY, ESQ.

Dear Sir: Permit me to trouble you with some business which is to me of the utmost importance, and I hope you will give it your strict attention, charging me in proportion to the trouble it may occasion you. You find herein inclosed

A note on B. R. Truly, for . . .	$3575 00
do. " C. C. Arnett, " . . .	186 53
do. " Josiah Bonner, bal. of principal,	263 56
E. E. Principal, . . .	$4025 09

You will please attend to the collection of said notes, and place the money, when so collected, to the payment of a draft or bill of exchange drawn by myself, indorsed by the above-named Josiah Bonner and others, for the sum of thirty-seven hundred and nine $\frac{55}{100}$ dollars; said bill was accepted by Boggart & Hoops, and returned protested for non-payment, and is now sued on in the Circuit Court of the *United*, at Jackson; the suit is known on the docket, if my memory serves me correctly, as "United States Bank *vs.* John R. Hubert, Same *vs.* Josiah Bonner;" it was returnable to last term of said court, but was continued at the November Term of said court next. Judgment will doubtless go against me and against Josiah Bonner, one of my securities on the bill. If you inquire, as you doubtless will, the reason of so unexpected pro-

ceeding, I answer that I am some straitened in my own pecuniary matters, and I am liable for large amounts as indorser for others, and I wish to take timely steps to secure my indorsers from suffering on my account. To prevent any trouble that might arise from brother Truly's not knowing where the note is, it will be necessary to inform him as soon as may be, that you are the holder, and that you look to him for payment at maturity. I saw him short time since, he spoke of the money being certain, and I trust there will be no failure, but you had better at all events send it to the bank, say 1st Jan'y, if after it is due, if not paid but protested, and he is straitened in his money matters and cannot pay it, if he will go into a bond as security and bind himself to be accountable for the amount his note and the interest and proportion of the costs that may afterwards accrue, I would think it would be safe to have him do so, which will give him until Nov. Term, 1838, before he will have to pay the money; as to Arnett, if you could seen and he will promise absolutely that the money shall come this fall or winter, I think he might be relied on; if you think not you had better sue him to the approaching term of the court in Leak, which is not far distant. With regard to Mr. Bonner, I will inform him how the matter stands the judgment will go against the offices will be apt to attend this case. Do not presume that I wish you to take so much trouble for no compensation, I only wish assurance that you will to it vigilantly and you shall be fur compensated: please acknowledge the receipt.

Yours respectfully,

JOHN R. HUBERT.

P. S. I would like you to notify Brs. Truly and Arnett that you are holder of their notes soon as you can, lest they be garnisheed and the money applied to some debt in which I am only security.

Yours truly,

J. R. HUBERT.

Deposition of Samuel B. Sheldon.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:
City of Jackson.

The deposition of Samuel B. Sheldon, taken before me, the undersigned Commissioner, &c. for the Southern District of Mississippi, by consent, on the 24th day of January, 1849, to be read in evidence in the suits now depending in the Chancery side of the United States Circuit Court for the Southern District of Mississippi, wherein Bennet R. and Jno. H. Truly are comp'ts, and Moses Wanzer and Jabez Harrison are defendants, being duly sworn to

answer the interrogatories propounded to him, to the following interrogatories by com'ts.

1st. Are acquainted with the handwriting of John R. Hubert? if so, whether the annexed letter, purporting to be from him, dated 17th July, 1837, and directed to Hambleton McOrly, Esq., Williamstown, Madison County, Miss., is in the handwriting of the said John R. Hubert.

Deponent answering, says: That he is well acquainted with the handwriting of the said John R. Hubert, and says that the said letter, marked (*A*), and referred to in the deposition annexed of Jeptha Hollingsworth, is in the handwriting of the said John R. Hubert.

Int'y by Def'ts.

State whether or not you knew said John R. Hubert in the years 1836 and 1837, and knew of his habits and mode of doing business at that time. If you state what were his habits and mode of doing business, whether or not you believe from your knowledge of his said habits and mode of doing business, he would then have sold and delivered slaves or other valuable property to said Bennet R. Truly without exacting from him at the time payment therefor or security by note or otherwise for such payment.

Answer to said interrogatory. Deponent says he knew him well; said Hubert was considered a diligent but a confiding man in his business transactions; further that, ordinarily, Hubert would not have sold property, such as mentioned in the interrogatory, without demanding payment or security by note, and that the said Bennet R. Truly and said John R. Hubert were both brother Methodists, and the said John R. Hubert was a preacher, and deponent thinks Truly was also at that time, and does not know what he might have done with the said Bennet R. Truly, they, Hubert and he, being intimate as members of the same church, and friends.

And further this deponent saith not.

S. B. SHELDON.

I, Tho's Shakleford, U. S. Com. &c., as aforesaid, do hereby certify that I caused the said witness, Samuel B. Sheldon, to appear before me, in the City of Jackson aforesaid, on the 24th January, 1849, the place of taking the foregoing deposition, who, being duly sworn, and being of lawful age and sound mind, &c., did answer the foregoing interrogatories propounded as herein-before written and stated, and the said answers were reduced to writing in his presence, and after being carefully read over to him, the said witness, he signed the same in my presence. I have retained this deposition for the purpose of sealing up and delivering to the court for which the same is intended for, &c. I further certify, that I am neither of

counsel for complainants or defendants, and am not interested in the event of said suit mentioned in the caption hereof.

Given under my hand and seal on the 24th day of January, 1849.

THOS. SHAKLEFORD,
U. S. Com., &c. &c., South. Dis., Miss.

UNITED STATES OF AMERICA,
In the C. C. of the U. S. for the South. Dis. of Miss.

B. R. & J. H. TRULY
vs.
WANZER & HARRISON.

Interrogatories to be propounded to Fletcher Truly, of Madison County, Mississippi, the answers to which will be read on the behalf of the complainants in the case of B. R. and J. H. Truly, complainants, against Wanzer & Harrison, when the same shall be heard, it being a suit now pending between said parties in the Circuit Court of the United States for the Southern District of Mississippi, in Chancery, sitting at Jackson in said Southern District.

First. Are you acquainted with the parties to this suit or either of them?

Second. What relation, if any, do you bear to said parties or either of them?

Third. Did B. R. Truly at any time, to your knowledge, have any trading or dealings of any kind with one John R. Hubert?

Fourth. If you shall answer in the affirmative, then proceed to state what was the subject-matter of said trading or dealings, when and where the same took place.

Fifth. Did B. R. Truly sell any property to said Hubert, or did he buy any property of him? If he purchased, say what he purchased; what was the number, description, and estimated value of the property? State names and ages.

Sixth. Was said trade made for cash or on credit? if on credit, was any note or were any notes executed to secure the debt?

Seventh. State, if you can, how many notes were made, by whom they were signed. If indorsed, by whom indorsed, and if you know to whom were they delivered and for what amount drawn, when dated, and when and where payable.

Eighth. Were you ever, at any time, present when a note was presented to B. R. Truly for payment, by Hamilton McCauley? if so, state the date and amount of the note, to whom payable, and what the same was given for, so far as you know.

Ninth. If you know what said note was given for, state what has become of that for which it was given.

Tenth. Is the property for which said note was given still in the possession of B. R. Truly? if not, what has become of it?

Eleventh. Do you know or can you set forth any other matter or thing which may be benefit or advantage to the parties at issue

in this cause or either of them, or that may be material to the subject-matter of this your examination, or the matters in question in this cause? if yea, set forth the same fully and at large in your answer.

MAYES & CLIFTON,
Sol's for Comp'ts.

B. R. & J. H. TRULY
vs.
WANZER & HARRISON. } In Chancery.

Cross-Interrogatories by defendants to Fletcher Truly.

1st. State where and with whom you reside, and what is your age and occupation.

2d. State when you first became acquainted with John R. Hubert, and where and for how long you knew him; what was his age at those times? Describe him as fully as you can, and state his stature, complexion, color of hair, &c. Did he or not have an impediment in his speech, or any marked peculiarity in his person, manner, or address?

3d. If you shall answer to the third interrogatory propounded by complainant, that you know of any such trading or dealings, please state how you know it was so. Do you know the fact of your own knowledge, or do you derive it from the information of others? When and where did it take place, and where was you at the time, and what other persons, if any, were then and there present?

4th. Please state how and when it became known to the complainants, or either of them, that your testimony was material on the trial of this cause, and why your deposition has not been taken before. When did you make known to either of the complainants the facts stated by you in your answers to the direct interrogatories, and what induced you to do so? Did you volunteer the information, or were you applied to for it, and when, and by, and to whom? State how and why it so happened, and why your deposition was not taken at the time when the depositions of the other witnesses in this case were taken by complainants.

5. State whether or not matters stated by you in your answers to the several interrogatories propounded by complainants, are all known to you of your own knowledge to be just as you have stated them. If not, state which of said matters are of your own knowledge, and which of them are derived from information of others. State how you know the matters, what means of knowing you have had, and how it is that at this late date of your examination, you happen to know and recollect the matters so stated by you. Also state if you are particular as to names, dates, amounts, &c., as to the matters so stated by you, and if so, how do you know them to be so?

State particularly as to your means of information, recollection,

&c. of each of the matters so stated by you. If you have not in your answers to the direct interrogatories, state fully and particularly the dates, names, accounts, &c. as to the matters so stated by you, please now state them, and state why and how you at this time know and recollect them, and whether you so know or recollect them from your own knowledge or from information of others.

6. If in answer to the third interrogatory propounded by complainants, you say there was any such dealings or trading, please state whether or not you know of any other dealing or trading between said complainants or either of them, and said John R. Hubert or Fletcher W. Hubert. If so, state each and every such transaction known to you of your own knowledge, and give all the particulars of each, stating what it was about, and giving names, dates, amounts, &c. If any note or notes were given, describe the same particularly; state also, whether or not you have heard said complainants or either of them say or admit, there was any other transaction between them or either of them, and said John R. Hubert and Fletcher W. Hubert or either of them. If so, state all that was said or admitted, and to whom and when.

7. If in answer to the fourth direct interrogatory you state anything relating to the subject-matters, &c. of said trading or dealing as required by that interrogatory, please state from whom you derived your information, and how you know the facts to be as you state them. Was you present at the time and place when and where the dealing or trade was had or made? if so, how happened you to be present, and who else was there? if not, where was you? How do you happen to recollect, at this late day, the date of such trade or dealing, or of any of the particulars thereof stated by you in answer to that interrogatory?

Was the property or the subject-matter of such trade or dealing seen by you at the time and place where such trade or dealing was had or made, and was it then and there delivered? If not, how do you know there was any such trade or dealing. Who told you that there was, and when did he tell you?

If you say any note or notes were given in such trade or dealing, state how you know the fact to be so. Did you draw the note or read it at the time, or how otherwise do you happen to know the particulars stated by you in relation to such note, and how are you enabled to describe identically, at this late day, such note; what circumstance or thing enabled you to do so? with whom have you conversed at any time, and when and where, in relation to such note, and what was then said on the subject? when and where did you last see such note or notes, and where are they now, and what marks are there upon them by which you can identify them. Are you positive that the matters stated by you in your answers to the direct interrogatories, as of your own knowledge, are actually known to you, and that you do not make any of those statements upon information you have derived from others?

8. If you attempt to state particulars, as required by the fifth direct interrogatory, state particularly how and why you know the facts to be as you have so stated them, and how it happens that you are now enabled to state with such precision, the number, description, estimated value, names, ages, &c., and how and from whom did you learn and hear these matters originally?

9. If in answer to the 6th direct interrogatory you say any trade was made for cash or on credit, or that a note or notes was executed, please state fully how you know, and from whom you derived your information.

10. If in answer to the seventh direct interrogatory you describe any note, please state fully all the facts by which you are enabled to make such description, and from whom you derived your information; and how does it happen that you are thus able, at this late day, to recollect with such minuteness, the names of the parties to such note, the date, amount, and when and where payable, and by whom indorsed. Did you see all the parties sign or indorse the note, or how do you know the facts? Please annex to your answer hereto a full copy of such note or notes, with indorsements thereon, &c., &c.

11. If you say you was present when Hamilton McCauley presented to B. R. Truly a note for payment, please state when and where it was, and how it was present.

If you attempt to describe any note so presented and to state the consideration for which it was given, please say how you know the facts to be so, and from whom you derived the information. Did you read the note or hear it read? and if so, how did that happen, or how otherwise are you enabled to describe it, and how is it that you can even now describe it so accurately, and how do you know for what such note was given, from whom did you learn it, and how do you happen to recollect the particulars of such consideration? Please annex a full copy of such note, with indorsements thereon, to your answer hereto.

12. State whether or not John R. Hubert and Fletcher W. Hubert were partners in business. If so, state when, where, and for how long they continued to be so, and to what their business extended.

13. State whether or not said Bennet R. Truly has sold any of the slaves spoken of by you in any of your answers to interrogatories propounded by complainants. If so, which of them, and where and to whom. State the several sales he has ever made of any of them. State names, dates and particulars. Say what statements you have heard said Bennet R. Truly or John H. Truly make in relation thereto. State also, whether or not the said Bennet R. is insolvent, and if so, how long has he been so, and what has become of the property, if any, heretofore owned by him. If he is not insolvent, what property has he, and where is it? state particularly.

14. State whether or not you know anything of any plan, agreement or attempt of said Bennet R. or John H. Truly, or either of them, to evade or defeat the judgment in favor of Wanzer & Harrison, enjoined in this suit, or any claim of theirs, and whether or not you have heard any statement of either said Bennet R. or John H. Truly, in relation to any such plan or agreement or attempt, whether the same related to any suit or suits by certain heirs of Nicholson or otherwise. If so, state the same fully, and all particulars.

State also, whether or not you know when said Trulys or either of them were first informed of any claim to any slaves, on the part of said heirs, or have heard either of said Trulys make any statement in relation thereto. If so, state the same fully, giving dates, &c.

15. If you answer the ninth direct interrogatory as thereby required, please state how you know the matters stated by you, and from whom and when you derived your information, and also, state in like manner as to the matters stated by you in answer to the tenth direct interrogatory, being careful to state why and how you know the matters stated by you, and which of them you know of your own knowledge, and which you know from the information of others.

16. State whether or not you have any writing or memorandum, original or copy, showing any of the matters stated by you in any of your answers to the interrogatories propounded by complainants. If so, who wrote it, and when and where was it written? Where did you get it from, and from whom? State, also, if you speak of your own knowledge, or from the contents of such writing or memorandum, and annex every such writing or memorandum to your answer hereto.

Please say whether the complainants, or either of them, or any person has had any conversation with you in relation to your testimony in this cause in any particular; whether it related to the matters to be proved by you, the importance or necessity of obtaining your testimony, or otherwise. If so, state the name of each such person, and all that was said by him, and when and where and what inducements have been held out or made to you concerning your testimony in this case.

State what examinations, investigations, or inquiries you have made in relation to any of the matters spoken of by you in your testimony in this cause, and when and where you made them, and with whom and at whose instigation or request, and who was there present, and what was the result of such your examination, &c., and what information you received, and when, and where, and from whom. State all particulars.

17. Are you certain that none of the notes mentioned by you in any of your answers to any of the direct or cross-interrogatories herein originated in any other and different transaction than that referred to in the 6th interrogatory propounded by complainants?

if not, specify which of said notes may have originated in any other transaction.

18. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? if yea, state the same fully and at large in your answers.

VAN WINKLE & POTTER,
Solicitors for Defendants.

UNITED STATES OF AMERICA,
Southern District of Mississippi, to wit:

The President of the United States to John Handy and Thomas Shakleford, or either of them, greeting:

Know ye, that trusting to your fidelity and provident circumspection in diligently examining Fletcher Truly in a certain cause now depending in the Circuit of the United States for the District aforesaid, wherein B. R. and J. H. Truly are complainants, and Wanzer & Harrison are defendants, you are requested at such certain days and places as you shall appoint, to call and cause the said witness to come before you, and him diligently examine on oath, and his examination into the Circuit Court aforesaid you distinctly and plainly set together, with this writ inclosed, with all convenient speed.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States at Jackson, the first Monday in November, in the year of our Lord one thousand eight hundred and forty-eight, and in the 73d year of the Independence of the United States of America.

Issued the 24th day of April, 1849.

[L. S.] W. H. BROWN,
Clerk.
per CH'S H. ROGERS,
D. C.

UNITED STATES OF AMERICA,
Southern District of Mississippi, Circuit Court U. S.

I, William H. Brown, Clerk of the said Circuit Court, do hereby certify that the foregoing interrogatories and cross-interrogatories are truly copied from the originals on file in my office.

Given under my hand seal of said Court this 27th day of April, A. D. 1849.

[L. S.] W. H. BROWN,
Clerk.
per CH'S H. ROGERS,
D. C.

Deposition of F. Truly.

UNITED STATES OF AMERICA,
Southern District of Mississippi, ss:
Canton, Madison County.

Be it remembered, that on this fourth day of May, in the year of our Lord one thousand eight hundred and forty-nine, before me, Thos. Shakleford, a Commissioner, duly appointed by the Circuit Court of the United States for the Southern District of Mississippi aforesaid, under and by virtue of the several Acts of Congress, &c., &c., personally appeared at my office, in said town of Canton, in said District, Fletcher Truly, residing in the County of Madison and District aforesaid, a witness of sound mind and of lawful age, for the complainants in a civil suit now depending in the Circuit Court of the United States in and for the Southern District of Mississippi, on the Chancery side thereof, wherein B. R. and J. H. Truly are complainants, and Wanzer & Harrison are defendants, and the said Fletcher Truly being by me first carefully examined and cautioned, and sworn on the Holy Evangelists of Almighty God to testify the whole truth and nothing but the truth in his answers to the interrogatories in chief propounded to him by complainants, and cross-interrogatories propounded by defendants to the inclosed commission annexed, did depose and say in his answer to 1st interrogatory in chief:—

Ans. to 1st. inter. That he is acquainted with the complainants, but not with the defendants.

Ans. to 2d. inter. in chief. Says: That he is the son of Bennet R. Truly, and the nephew of John H. Truly.

Ans. to 3d. inter. in chief. Answering, says: That he knows that Bennet R. Truly and John R. Hubert had tradings and dealings with each other.

Ans. to 4th. inter. in chief. Answering, witness says: That some time in month of November, in the year 1836, as well as he now recollects, complainant, B. R. Truly, purchased of the said John R. Hubert negroes in the town of Madisonville. Complainant, B. R. Truly, purchased five negroes, viz: Sam, Alick, Mary, and Si, and Peter, from the said John R. Hubert at that time.

Ans. to 5th. inter. in chief. Answering, says: Does not know whether the said B. R. Truly ever sold any property to the said John R. Hubert; states that he purchased negroes as stated in his answer to 4th. inter.; their ages I do not recollect of hearing any one say what their ages were, but supposes Alick, Si, and Sam, were about 22 or 23 years of age at that time; the girl, Mary, was about 15 or 16; witness would judge, Peter was about 10 or 12 years of age. Alick was a yellow negro, Si and Sam dark complexioned, Mary was a yellow or mulatto, Peter was a dark complided boy and lame. Says he cannot say from his recollection

at this time what the estimated value of the negroes were; he knows that a large price was given or to be paid for them.

Answer to 6th inter. Answering, says, that the said trade or purchase was made on credit and not for eash; that soon after the said negroes came home, his father sent him to Madisonville, with a letter containing papers relative to the trade; heard his father, B. R. Truly, say something to Mr. Southerland about sending the notes to Mr. Hubert by deponent at that time; does not recollect that Hubert said anything to witness about the contents of the letter he delivered to said John R. Hubert.

Answer to 7th inter. Says, he cannot state from his own knowledge how many notes were given, and the amounts.

Answer to 8th inter. in chief. Answering, says, that he was present at Hamilton McCauley's store in the neighborhood of his father's with his father, when the said Hamilton McCauley had a conversation about a note which he had in his possession, sent to him to collect by John R. Hubert; that the said Hamilton McCauley held the note in his hand some time whilst talking to his father, and deponent saw the indorsements upon the back of the note, which were the names of A. W. Robinson and Wm. O. Aldridge. He, deponent, was about 12 years old at the time, and his attention was called to the matter more particularly on account of his father's proposing to sell or deliver up to the said McCauley the negro man Sam, who was fond of children and a favorite of deponent's; he offered (his father) to let him, McCauley, have other negroes towards the payment of the said note, as well as Sam. Deponent knows from his recollection of the conversation that the note was for a large amount, but the amount he does not recollect; the note was drawn by his father as was stated at the time; says that at the time of the conversation above alluded to, that he was under the impression that the note was given for negroes; that he came to this conclusion from having previously heard John R. Hubert when in conversation with his father, stating that he had made a good trade with him, B. R. Truly, in selling the negroes aforesaid; deponent thinks his father complained of the extravagant price he was to give for them, but said as he made the trade he would stick up to it; this conversation took place at his father's residence. The negroes for which the said note (Hamilton McCauley had) was given for, as he understood from hearing his father and McCauley conversing about the same, have been disposed of as follows: Sam and Peter were sold by his father, and Mary was sold to S. B. Sheldon; Si and Alick has been sued for and recovered by the heirs of Nicholson.

Answer to 9th inter. Says, that he had answered this interrogatory in his answer to 8th inter.

Answer to 10th inter. Answering says, that he has answered this in his answer to inter. 8th.

Answer to 11th inter. in chief. Answering, says, that he does not

know of anything further that would be of advantage or benefit to either of the parties at issue, or material to this his examination or the matters in question.

Answers to cross-interrogatories propounded by defendants. Answering, says, that

To 1st inter. says: That he resides in the lower end of Madison County, with D. A. Goodler; his age is about 23 years, and his occupation a farmer.

Answer to 2d cross-inter. Says, that he became first acquainted with John R. Hubert by seeing him at his father's residence, in Madison County, as well as he now recollects in or about the year 1836. Knew him till left Miss.; can't say what his age was; can't recollect what his size was, but a medium sized man, rather dark complited; don't recollect the color of his hair; does not know that he any marked or peculiar manner or address or person, or any impediment in his speech.

Answer to 3d cross-inter. All he knows about the trade he has set forth in his answer to interrogatories in chief; that he learned it from hearing his father and the said Hubert talking about at his father's residence, in Madison County, and from hearing his father conversing with Southerland, and from the fact of conveying the letter, which was as before stated, contained papers or notes about or connected with the said trade.

Answer to 4th cross-inter. Answering, says, that he did not know that his information about the trade or transaction by and between his father and the said Hubert would be of any use or importance until recently, when on a visit to his father's residence, he got into conversation with his father, and he, his father, thought what he knew about the transaction would be of advantage to him, and said he wished to take his deposition. Does not reside with his father. He got into conversation with his father and gave his information in a conversation with his father.

Answer to 5th cross-inter. Says, that he has stated all the matters he knows of his own knowledge in his answers to the interrogatories in chief, and those from the information of others; he has given the reasons why he recollects the matters he has stated on his own information; states that he recollects going to Madisonville with the letter to John R. Hubert, from the fact that his father promised him a new saddle, which he let him go to Madisonville at that time to get.

Answer to 6th cross-inter. Deponent answering, says, that he knows nothing of his own knowledge; has heard his father say that he had purchased a tract of land of F. W. Hubert, for which he said he had executed 3 promissory notes for the purchase-money, each for the sum of $3570, and that they amounted to $10,710.00, and that he heard his father say that he has paid off, settled and compromised with the holders 2 of said notes; that he paid off to S. B. Sheldon one of them; he paid one of the said notes to a man

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by the name of Butterworth, and the other is held and bound by a man by the name of Rowland Redmond, of New Orleans.

Answer to 7th cross-inter. That he first heard his father say that he had purchased the said negroes from John R. Hubert, and then heard the said John R. Hubert conversing about the purchase or trade as he has herein-before stated the same; recollects that the said John R. Hubert afterwards (that is after his father had purchased the said negroes) asked witness how the said negroes come on, &c., he had sold to his father, calling some of their names. Witness was not present at the place of making the trade, which he has already stated. Supposes he was at home or at school when the trade was made; recollects the time of the trade, the month, &c., from the fact of his going to school to a man by the name of Surry, who taught school in his father's neighborhood at that time, and from the fact that he recollects the different schoolmasters to whom he went to school, and the time they taught; that the property was not seen at the time of said trade, nor did he see it delivered, because he was not present at the time the said was completed, only recollects when the negroes came home, and what he heard his father and the said John R. Hubert say relative to it, after the negroes came home, and at his father's house. In answer to the last part of this inter. he only can say that he has fully answered all he knows about the transaction from his own knowledge; he never saw any of the notes; except the one the said McCauley had, which was said by his father at the time to be given as part of the purchase-money for said negroes herein-before mentioned; he heard his father speak of having given said note; that McCauley had another note for $3575, in favor of John R. Nicholson, drawn by his father, Dennis Burrs and William Southerland, due 12 months after the 1st March, 1837. Saw the last note in the office of the Circuit Court of the United States for the Southern District of Mississippi, judgment on the same and paid off, suit in the name of said John R. Nicholson; his father showed him the last mentioned note in the Ct. Court about a month since; this he said was one of the notes for the purchase-money for said 5 negroes.

Answer to 8th cross-interrogatory. Says that he learned originally that the purchase of the said negroes was made by his father from the said John R. Hubert, from the said B. R. Truly; and afterwards heard the said Hubert talking to his father about the trade, &c., and his conveying the letter containing notes or papers relative to the said purchase; and Hubert, J. R., inquired of deponent how the said negroes came on, &c., calling the names of some of them, &c., as stated herein before.

Answer to 9th interrogatory. Can only state what would be a repetition of what he has already stated relative to and touching said trade in his answers in chief to the preceding cross-interrogatories.

Answer to 10th cross-interrogatory. Says that he stated all he

knows about said notes, the amount, date, in his answer to 7th interrogatory in chief; that in his answer to 8th interrogatory in chief he stated that all knew about any note was, that he saw the indorsements of A. W. Robinson and W. O. Aldridge on the note; Mr. H. McCauley was talking to his father about collecting, as he has stated fully in his answer to 8th interrogatory in chief.

Answer to 11th cross-interrogatory. Says that the conversation about the notes with his father and McCauley took place at H. McCauley's store-house, and does not now recollect when, precisely, the note was so presented, but recollects that it was not long after the purchase aforesaid. Says his mother, old Mr. McCauley, and several other persons, were in the store at the time; and he recollects it from the fact, that he was distressed at the idea of his father's selling Sam, to whom he was attached. Has no copy of the said note, but has seen the note filed by Hamilton McCauley, but could not state the amount of the same, dates, and time of payment. Has stated all he knows about the same.

Answer to 12th interrogatory. He only knows that the said Hubert had a store in Madisonville; who were the partners, and how long they were partners, deponent does not know.

Answer to 13th cross-interrogatory. States that he does not know to whom the said negroes, Sam and Peter, were sold to, only from what he has heard his father say, who says that he sold Sam to Jno. S. Gooch; Peter, he says, was sold in Vicksburg; Alick and Si have been received from his father and John H. Truly by the heirs of Nicholson; Mary was sold by his father to S. B. Sheldon. Don't know the times of the sales or securities, exactly. Says that the said Bennet R. Truly is insolvent; can't tell how long he has been insolvent. Has heard his father say that he has sold the balance of his property to his brother, Jno. H. Truly, who has arranged and paid off various debts for his father; this he has heard from his father and uncle, that debts, amounts, when paid, &c. &c., cannot say were paid off by his uncle.

Answer to 14th cross-interrogatory. Says he never has heard his father or uncle say that they had any share or desire to defeat the judgment of Wanzer and Harrison against them, or any other plan or share for that purpose, through suits or suit of the heirs of Nicholson or otherwise. The first intimation of a claim asserted by the heirs of Nicholson, was when Mr. John J. Lamar, the agent of the Nicholson heirs, and acting as deputy sheriff, came to the house of deponent's father in the spring of the year 1845, and the said Lamar was accompanied by one of the heirs of Nicholson; that he went to his father in Attala county to inform him of the fact; he had Mr. Rogers speak of a defect, as he thought, in the title of the said negroes a number of years before that time.

Answer to 15th cross-interrogatory. Says nothing, as he has answered fully all he knows about the matters referred to in said interrogatory, in his answer to 8th interrogatory in chief.

Answer to 16th cross-interrogatory. Says he has no memorandum or writing showing any of matters stated in this his examination. Says that he has had no conversation about giving his testimony in this case, only with his father, who supposed that it might beneficial to him, and requested him to come up to Canton, where he desired to take. Was at Jackson with his father, in the office of the Circuit Court of the United States, and looked at some garnishment suits against his father, and saw a garnishment in favor of Wanzer and Harrison against his father and Hamilton McCauley. The object of taking or requesting witness to go the said office was to see if he, witness, could identify the note; he found that there was no note in the papers, and could only state that indorsement, as stated in the papers, agreed with witness' recollection of the indorsements of the note Hamilton McCauley showed to his father as aforesaid, stated in his examination in chief.

Answer to 17th cross-interrogatory. Can say nothing about the matters referred to in this interrogatory, except that he has seen the Nicholson note referred to in his answer to 7th cross-interrogatory; knows nothing of how the other notes originated, except what he has learned from his father, and what he has stated in his answer to 6th cross-interrogatory.

Answer to 18th cross-interrogatory. Answering, says, that he does not know of anything that would be of benefit or advantage to any or either of the parties at issue in this cause, or either of them, or that may be material to the subject of this his examination.

And further this deponent further saith not.

F. C. TRULY.

UNITED STATES OF AMERICA,
Southern District of Mississippi,
Canton, Madison county, ss:

I, Thomas Shakleford, a commissioner duly appointed by the Circuit Court of the United States for the Southern District of Mississippi, do hereby certify that, by virtue of the commission issuing from the office of the Circuit Court of the United States for the Southern District of Mississippi, to me directed, and attached to the annexed interrogatories, I caused, on the fourth day of May, A. D. 1849, to appear before me, at my office in the town of Canton in said county of Madison, Fletcher Truly, the witness aforesaid, and the said witness was by me carefully examined and cautioned and sworn to testify the whole truth; and the foregoing deposition was by me reduced to writing in the presence of the witness, and after carefully reading the same to the witness, he subscribed the same in my presence. I have retained the said deposition in my possession for the purpose of sealing up, directing, and forwarding it to the court for which it was taken. I further certify, that I am not of counsel or attorney to either of the parties in said

deposition mentioned, or in any way interested in the result or event of said suit depending between the said Bennet R. Truly and John H. Truly, complainants, and Wanzer and Harrison, defendants.

In testimony whereof, I have hereunto affixed my hand and seal this 4th day May, 1849.

THOMAS SHAKLEFORD, [SEAL.]
U. S. Com. for C. C. U. S., South Dis. of Miss.

Commr's fee $10, still due. T. S.

Transcript.

STATE OF MISSISSIPPI:

IRA NICHOLSON
vs.
JOHN R. TRULY *et al.* } No. 3433.

Pleas before the Honorable Stephen Cooke, Chancellor of the State of Mississippi, at a Superior Court of Chancery of said State, continued and held at the Court Room in the City of Jackson, on the day of A. D. 184 .

Be it remembered that heretofore, to wit, on the sixteenth day of May, A. D. 1845, came the complainant, Ira Nicholson, by his solicitor, and filed, in the Clerk's Office of said Court, his certain bill of complaint against John H. Truly and others, and procured process to be issued thereon, which bill and process is in the words and figures following, to wit:—

Bill.

To the Honorable Robert H. Buckner, Chancellor of the Superior Court of Chancery in and for the State of Mississippi, at Jackson, in said State.

Your orator, Ira Nicholson, a citizen of the State of Alabama, humbly complaining, would respectfully represent unto you, that he is one of the heirs of Evan Nicholson, who departed this life some time previous to the year 1835, in the County of St. Clair, in the State of Alabama; that at the time of his death he was the owner of considerable negro property, and that administration was granted upon his estate to one Lewis Cunningham; that an application was made to the County Court of the County aforesaid in said State of Alabama, for a division of said negro property between the heirs of said Evan Nicholson, on the 5th day of November, 1835, by two of the heirs of said Nicholson, then of full age, John R. Nicholson and Nelson Harlin, in right of his wife, who intermarried with one of the daughters of said Evan. That the County Court of said county then and there granted the application and ordered a division of the negroes of said intestate amongst the children of said Evan Nicholson, of whom your orator is one.

Your orator at that time being a minor, John R. Nicholson was appointed by said court his guardian, on the 17th November, 1835. Your orator, upon the division of said negro property, and by virtue thereof, became the owner of a negro man, by the name of Josiah, who came to the possession of his said guardian, John R. Nicholson; all of which will more fully appear by reference to exhibit *A*. A more perfect copy of the record is prayed to be filed in lien as soon as it can be obtained. Your orator would further represent that his said guardian, without any authority whatever, and to deprive and defraud your orator, his said ward, out of his said property, ran off, and secretly conveyed the said negro, Josiah, out of the State of Alabama, to prevent your orator from getting possession of said negro. Your orator would further represent that his said negro, Josiah, is now in the possession of Bennet R. Truly, of Madison County, Mississippi, who pretends that said negro belongs to John H. Truly, of Holms County, in said State, and not to your orator, both of whom are prayed to be made parties to this bill. Your orator would further represent that said Bennet and John H. Truly well know that said negro belongs to your orator, and not to them or either of them, and yet fraudulently withhold said negro from your orator. Your orator would further represent that he is advised and believes, and charges the fact to be, that said Bennet and John H. Truly will run off said negro beyond the jurisdiction of this honorable court, unless they be restrained from so doing by your honor, and your orator will forever lose said negro, and the value thereof.

All which actings and doings are contrary to equity and good conscience, and tend to the manifest injury of your orator in the premises, and inasmuch as your orator is relievable only in a court of equity, where matters of this nature are properly cognizable. To the end, therefore, that the said Bennet R. Truly, who is a citizen of the County of Madison, and John H. Truly, a resident of the County of Holmes, State of Mississippi, and John R. Nicholson, non-resident, all of whom are prayed to be made parties to this bill, may, upon their respective corporal oaths, to the best of their knowledge, information, and belief, full, true, direct, and perfect answers make to all and singular the matters aforesaid, and that as fully as if the same were here again repeated in the form of interrogatories, may it please your honor, upon a final hearing of this bill, to order, adjudge, and decree to your orator the value of the hire of said negro, since for the time the same has been in possession of defendants, Truly, and that the same be paid by them to your orator, and that said negro be decreed by your honorable court to be delivered up to your orator as his own property.

May it please your honor to grant unto your orator the writ of injunction restraining said John H. and Bennet R. Truly, and all other persons from removing said negro slave, Josiah, beyond the jurisdiction of this honorable court, directed to the said sheriff of

Madison County, Miss., commanding him, the said sheriff, if the said John H. Truly and Bennet R. Truly fail to give bond and good security to have said negro forthcoming to abide the further order of your honorable court in the premises, to take possession of said negro Josiah, and him safely keep until the further order of your honor in the premises. May it please your honor to grant unto your orator also the writ of subpœna to be directed to said John H. Truly and Bennet R. Truly, and John R. Nicholson, commanding them at a certain day, and under a certain penalty to be therein inserted, to be and personally appear before your honorable court, and then and there full, true, direct, and perfect answers make to all and singular the premises, and further to stand to perform and abide such further decree thereon as to your honor shall seem meet, and to grant unto your orator such other or further relief as to your honor shall seem fit; and your orator, as in duty bound, &c.

LAWSON & FORD,
Sol's for Complainants.

THE STATE OF MISSISSIPPI,
Madison County, ss:

Personally appeared before the undersigned, a justice of the peace in and for said county, Isaac E. Nicholson, who being duly sworn, deposed that the matters and things in the foregoing bill set forth, are true to the best of his knowledge and belief.

ISAAC E. NICHOLSON.

Sworn to and subscribed April 26, 1845. Witness my hand and seal. [SEAL].

Let an injunction issue, as prayed for in the foregoing bill, requiring the defendants to give bond, with two good securities, in the penalty of $1200, conditioned to hold the slave in the bill mentioned, subject to such order or decree as may be made in the premises, and upon failing to give such bond, requiring the sheriff executing the process to take possession of said slave and hold him until further order. Such injunction to issue upon complainant giving bond, with James J. Lamar and Alexander Robbins as his securities, in the penalty of twelve hundred dollars, conditioned to pay all costs and damage that may wrongfully result to defendants from such injunction.

April 28, 1845.

RO. H. BUCKNER,
Chancellor.

Exhibit *A*, referred to in said bill, is not among the papers.

Injunction Bond.

Know all men by thesee presents, that we, Ira Nicholson, James J. Lamar, and Alexander Robbins, are held and firmly bound unto John H. Truly, Bennet R. Truly, and John R. Nicholson, in the sum of twelve hundred dollars to be paid to the said John H. and Bennet R. Truly, and John R. Nicholson, their heirs, executors, administrators or assigns, for which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, firmly by these presents; sealed with our seals, and dated the 15th day of March, one thousand eight hundred and forty-five.

The condition of the above obligation is such, that whereas the above bound Ira Nicholson has this day obtained from the Honorable Robert H. Buckner, Chancellor of the State of Mississippi, an injunction to stay all further proceedings until the same can be heard and determined in the honorable the Superior Court of Chancery of the State of Mississippi: Now if the said Ira Nicholson, in case the said injunction shall be dissolved, shall within thirty days thereafter well and truly pay and satisfy the said John H. and Bennet R. Truly, and John R. Nicholson, all damages and costs, and abide by and perform the decree of said Chancery Court, then this obligation shall be void, otherwise the same shall remain in full force and virtue.

Signed, sealed, and delivered in presence of H. A. H. Lawson, as to the two last named obligors.

IRA NICHOLSON, [SEAL.]
J. J. LAMAR, [SEAL.]
A. R. ROBBINS. [SEAL.]

Injunction.

THE STATE OF MISSISSIPPI,
Superior Court of Chancery of the State of Mississippi:

To John H. Truly, Bennet R. Truly, and John R. Nicholson, your agents, attorneys and counsellors, greeting:

Whereas, it hath been represented to us in our Superior Court of Chancery, on the part of Ira Nicholson, complainant, that he has lately exhibited his bill against you, John H. Truly, Bennet R. Truly, and John R. Nicholson, defendants, to be relieved, touching the matters in said bill contained. We therefore, in consideration of the premises and of the obligation in said bill contained, strictly enjoin and command you, the said John H. and Bennet R. Truly, and John R. Nicholson, under the penalty of twelve hundred dollars, to be levied of your goods and chattels, lands and tenements, to our use, that you absolutely refrain from removing from the jurisdiction of this court the negro man slave named Josiah, in complainant's bill mentioned, and that you, the said John H. and Bennet R. Truly, give bond with good and sufficient security in the penalty

of twelve hundred dollars, conditioned to hold said negro subject to such order or decree as may be rendered by the court in this suit payable to the complainant, and upon failure to enter into said bond, that you, the Sheriff of Madison County, take possession of said negro slave, and hold him subject to the further order of this court, and from any further proceedings against the said complainant touching any of the matters in said bill contained, until our said court shall make another order to the contrary.

Witness, the Hon. Robert H. Buckner, Chancellor of the State of Mississippi, at the court-room in the town of Jackson, the first Monday in December, in the year of our Lord one thousand eight hundred and forty-four, and of the sovereignty and independence of the United States of America the 69th.

ROBERT HUGHES,
Clerk.

per W. W. YERBY,
D. C.

Issued the 16th day of May, 1845, to the Sheriff of Madison County.

Indorsement.

I have duly executed this writ of injunction, and have taken of J. H. and B. R. Truly a bond, with K. Divine, security, according to the command of this writ, which I herewith return with said writ 20th May, 1845.

SAMUEL HAMBLIN,
Sheriff.

The bond returned by the Sheriff is in the words and figures following, to wit:—

THE STATE OF MISSISSIPPI,
Madison County:

Know all men by these presents, that we, John H. Truly, Bennet R. Truly, principals, and Kinsman Divine, security, are held and firmly bound unto Ira Nicholson in the penalty sum of twelve hundred dollars, for the payment of which, well and truly to be made, we hereby bind ourselves and each of our heirs, executors, and administrators, jointly, severally, firmly by these presents.

The condition of the above obligation is such, whereas the said Ira Nicholson hath prayed for and obtained an injunction from the Superior Court of Chancery restraining the said John H. and Bennet R. Truly from removing a certain man slave named Josiah from the jurisdiction of the said Superior Court of Chancery, and ordering the Sheriff of the County and State aforesaid to take said negro into his possession, if the said Bennet R. and John H. Truly should fail to give bond and security to have said negro forth-

coming, to abide the further order and decree of said court. Said John H. and Bennet R. Truly being desirous to give bond in accordance with said injunction.

Now if the said Bennet R. and John H. Truly shall have said negro forthcoming to answer the order, decree, and judgment of said Superior Court of Chancery, to be pronounced touching and concerning said negro Josiah, then this bond to be void, otherwise to remain in full force and virtue. Dated this 20th day of May, 1845.

JOHN H. TRULY, [SEAL.]
B. R. TRULY, [SEAL.]
KINSMAN DIVINE, [SEAL.]

Subpœna.

THE STATE OF MISSISSIPPI,
Superior Court of Chancery of the State of Mississippi:

To John H. Truly, Bennet R. Truly, and John H. Nicholson, greeting:

For certain causes offered before us in our Superior Court of Chancery of the State of Mississippi, we command and strictly enjoin you, that laying all other matters aside, and notwithstanding any excuse, you personally appear at a Superior Court of Chancery to be holden at the court-room in the City of Jackson, on the 1st Monday in June next, ensuing, to answer a bill of complaint exhibited against you by Ira Nicholson, complainant, in our said court; and further, to do and receive what our said court shall have considered of this behalf; and this you shall in nowise omit, under the penalty of one hundred dollars, as well as the consequences that may fall thereon; and have then and there this writ.

Witness the Honorable Robert H. Buckner, Chancellor of the State of Mississippi, at the city of Jackson, the first Monday in December, A. D. 1844, and of the sovereignty and Independence of the United States of America the 69.

Issued the 16th day of May, 1845.

To the Sheriff of Madison county to execute and return.

ROB. HUGHES,
Clerk.
by W. W. YERBY,
Dep. Clerk.

Indorsement.

Executed on B. R. Truly 20th May, 1845.

SAML. HAMBLIN,
Sheriff.
by JESSE BROWN,
Deputy.

And afterwards, to wit, at the December Term, A. D. 1845, the following order was entered upon the minutes in said cause, to wit:—

Upon opening the complainant's bill, and it appearing to the satisfaction of the court that the defendant, John R. Nicholson, is not a citizen or resident of this State, but resides beyond the limits thereof, and beyond the jurisdiction of this court, so that the ordinary process of the court cannot be executed upon him, and he having failed to enter his appearance herein, and plead, answer, or demur to the complainant's bill, upon motion of complainant, by counsel, it is ordered, that said defendant enter his appearance herein on or before the first day of the next term of this court, to be held at the court-room, in the city of Jackson, on the first Monday in the month of June next, and plead, answer, or demur to the complainant's bill, otherwise the same will be taken for confessed against him, set for hearing *ex parte*, and the matters thereof decreed accordingly; and it is further ordered, that a copy of this order be published in the *Mississippi Creole*, a newspaper printed in the town of Canton, once a week, for two months successively.

The proof of publication is in the words and figures following, to wit:—

STATE OF MISSISSIPPI,
Madison County:

Personally appeared before the undersigned Justice of the Peace in and for said county, John N. Montgomery, publisher of the *Mississippi Creole*, a weekly newspaper, printed and published in Canton, in said county, who having been duly sworn, deposed that the annexed advertisement of a notice from the Superior Court of Chancery, Ira Nicholson against John H. Truly *et al.*, was published in said newspaper for nine weeks in succession, in the following numbers, and at the following times, viz:—

In No. 29, vol. iv. April 4; In No. 30, vol. iv. April 11; In No. 31, vol. iv. April 18; In No. 32, vol. iv. April 25; In No. 33, vol. iv. May 2; In No. 34, vol. iv. May 9; In No. 35, vol. iv. May 16; In No. 36, vol. iv. May 23; In No. 37, vol. iv. May 30. All A. D. 1846.

J. B. MONTGOMERY,
Publisher of the Miss. Creole.

Sworn to and subscribed before me, this 15th day of June, A. D. 1846.
Witness my hand and seal.

And I, the said justice, do further certify, that file of said *Mississippi Creole*, containing said advertisement, has been produced be-

fore me, and compared with said copy, and that the same is correct and truly made.

Witness my hand and seal, this 15th day of June, A. D. 1846.

[SEAL.] J. L. MITCHELL,
Jus. Peace.

Answer of B. R. Truly.

And on the 6th day of December, 1845, the following answer of B. R. Truly was filed in the words and figures following, to wit:—

The separate answer of Bennet R. Truly, to a bill of complaint exhibited against him and others, in the Superior Court of Chancery of the State of Mississippi, by Ira Nicholson, complainant.

This respondent now and at all times saving and reserving, &c., for answer to so much of said bill as he is advised is material for him to answer unto says, that as to the allegation of complainant, that he is one of the heirs of Evan Nicholson, deceased, and that said Evan died previous to the year 1835, in the State of Alabama, and that he left considerable property, and that administration was granted upon his estate to one Lewis Cunningham, and that application was made to the County Court of St. Clair county, Alabama, for a division of his property, and that an order was granted, and that a division was made, and that complainant, by virtue thereof, became the owner of a negro man by the name of Josiah, and that complainant was a minor, and that John R. Nicholson was appointed his guardian, and obtained possession of said negro man Josiah, he knows nothing, and if he is to be affected thereby, requires strict proof.

Respondent knows nothing of said John R. Nicholson running said negro from the State of Alabama, or if he done so, with what intent and for what purpose he done so.

Respondent admits, that he has in his possession a negro by the name of Josiah, which he purchased in the year 1836, of one John R. Hubert, and that he gave a full and fair consideration for said negro, and that he made said purchase without any knowledge that complainant or any one else had any claim to said negro, save his vendor.

Respondent further states, that he did sell said negro to his co-defendant, and deliverd him to said John H. Truly; that afterwards respondent made a different contract in relation to said negro, the precise import of which respondent cannot now state, not having a copy of the same, but which he will procure and file as Exhibit and when so filed, he prays may be taken as part of this answer.

Respondent denies the allegation that he knows said negro belongs to complainant, and that he fraudulently withheld him from complainant.

Respondent having fully answered, prays to be dismissed with his reasonable costs, &c.

FITCH & MILES,
Att's for Def't.

THE STATE OF MISSISSIPPI,
Yazoo County:

Personally appeared before the undersigned, Judge of the Fifth Judicial Circuit of the State of Mississippi, Bennet R. Truly, who says on oath, that the facts stated in the foregoing answer as of his own knowledge are true, and those stated from information he believes to be true.

B. R. TRULY.

Sworn to and subscribed this 21st day of November, A. D. 1845.

R. C. PERRY,
Judge, &c.

Filed 6th December, 1845.

HUGHES,
Clerk.

Answer of John H. Truly.

And on the 6th day of December, 1845, the following answer of John H. Truly was filed, to wit:—

The separate answer of John H. Truly to a bill of complaint exhibited in the Superior Court of Chancery of the State of Mississippi, by Ira Nicholson, against him and *al.*

This respondent now and at all times saving and reserving, &c., for answer to so much of said bill as it is necessary for him to answer unto, says: That he has no knowledge of the various charges in complainant's bill in relation to his heirship, or the mode or manner that complainant obtained a right or title to him, and if he is to be affected thereby requires strict proof.

Respondent knows nothing in relation to the charge in the bill that said John R. Nicholson was the guardian of complainant, and that he ran off said negro, neither does he know anything of the sale of said negro by said Nicholson; neither does he know that said negro belonged to complainant, and of this he requires strict proof.

Respondent admits that he once purchased a negro by the name of Josiah of said B. R. Truly, and that subsequently a different contract was made, the precise terms of which he cannot now state, but will procure and file a copy of the same, which, when filed, he prays may be taken as part of this answer, to be marked Exhibit No. 1.

Respondent denies all fraud and combination, &c., and, having fully answered, prays to be dismissed, &c.

FITCH & MILES,
Atty's for Def'ts.

1921.

THE STATE OF MISSISSIPPI,
Yazoo County:

Personally appeared before the undersigned, Judge of the Fifth Judicial District of said State, John H. Truly, who says on oath that the facts stated in the foregoing answer, as of his own knowledge, are true, and those stated from information he believes to be true.

JOHN H. TRULY.

Sworn to and subscribed this 27th day of November, A. D. 1845.

R. C. PERRY.

Filed, 6th Dec. 1845.

And on the 9th day of December, 1846, the following decree was made in the case, to wit:—

Decree.

IRA NICHOLSON
vs.
JOHN H. TRULY *et al.* } 3433.

This cause having been submitted on the *pro confesso* vs. John R. Nicholson, and on bill, answer, exhibits, answer, and depositions, *vs.* Bennet R. Truly and John H. Truly, and the Chancellor, being fully advised therein doth order, adjudge, and decree, that the negro Josiah, mentioned in complainant's bill of right, belongs to said complainant, and that the said Bennet R. and John H. Truly deliver the said negro Josiah to said complainants.

It is further ordered, adjudged, and decreed, that the defendants, John H. Truly and Bennet R. Truly, be taxed with the costs of this suit to be assessed, &c.

STEPHEN COCKE.

And afterwards, to wit, at the December Term, A.D. 1847, the following order was entered upon the minutes in this cause, to wit:—

The motion to set aside the decree herein having been read and fully understood, it is ordered that said decree be and the same is hereby set aside; and upon motion of the parties by their counsel, it is further ordered that it be referred to L. V. Dixon, a Commissioner of this Court, to take and state an account herein between the parties according to law and the rules of this court, and that he report with all convenient speed, and all other matters are reserved until the coming of said report.

And afterwards, to wit, on the 12th day of February, A. D. 1848, the commissioner to whom this cause was referred made the following report, to wit:—

Commissioner's Report.

The undersigned commissioner to whom it was referred to take and state an account between the parties in the foregoing case would report as follows, to wit: That upon taking the testimony of A. H. Lamar, a witness produced by complainants, he finds therefrom as well as from the pleadings in said cause, that the negro boy, the subject of the controversy in said cause, came to the possession of Bennet R. Truly in December, in the year 1836, and remained in his possession until the year 1840, up to 5th February of that year; then by bill of sale of said Bennet R., of that date, he went into the possession of John H. Truly and remained in his possession until this time, and that the said boy's hire during those years was worth the sum of one hundred dollars per year, which will show that the said Bennet R. Truly is indebted to said complainant for the hire of said negro in the sum of three hundred and eight $\frac{3}{100}$ dollars, and that the said John H. Truly is indebted to the said complainant n the sum of eight hundred dollars at the date hereof. All of which is respectfully submitted. February 12, 1848.

L. V. DIXON,
Commissioner.

The deposition referred to in the above report is in the words and figures following, to wit:—

The deposition of A. H. Lamar, taken before me, L. V. Dixon, a Commissioner of the Superior Court of Chancery, upon a reference to take and state an account between the parties in two suits in said court of the following styles, to wit:—

Ira Nicholson *vs.* John H. Truly *et al.*, 3433, and Sarah C. Nicholson *vs.* John H. Truly *et al.*, 3431, by consent of the parties, notice being waived, and said Lamar being of lawful age and first duly sworn, deposeth and saith:—

Inter. 1, by complainants. Do you or not know boy named Si, or Josiah? if yea, in whose possession was he when you first knew him, and where?

Ans. I knew the boy; he belonged to Evan Nicholson, in South Carolina, who removed to Alabama, and there died about the year 1834; the negro was then in the possession, after the death of said Evan, of John R. Nicholson, as guardian of Ira Nicholson.

Inter. 2. Have you seen said boy since? if yea, when and where?

Ans. I have seen him since in the possession of Bennet R. Truly, in Madison County, Mississippi, taken by the Sheriff of said county by virtue of legal process against John H. Truly *et al.*, in favor of Ira Nicholson.

Inter. 3. What is the value of the hire of said negro in the years 1837, 1838, 1839?

Ans. His hire, I think, would annually average at least one hundred dollars.

Inter. 4. What would he have hired for during the years 1840, 1841, 1842, 1843, 1844, 1845, 1846, and 1847, by the year?

Ans. Some years he would have hired for more than a hundred dollars, other years about that sum. I think his hire would now average $100 per year for those years.

Inter. 5. Do you know a negro man named Alick? if so, in whose possession was he when you first knew him, and in whose when you last knew him?

Ans. I do; when I first knew him he was in the possession of John R. Nicholson, as guardian of Sarah C. Nicholson; and when I last knew him, he was arrested out of said Bennet R. Truly, at the suit of Sarah C. Nicholson.

Interrogatory 6. What would be the annual hire of said boy in 1837, 1838, and 1839, and also in 1840, 1841, 1842, 1843, 1844, 1845, 1846, and 1847?

Answer. The boy could have been hired at an average of one hundred and twenty-five dollars per year during any of those years.

And further deponent saith not.

A. H. LAMAR.

Sworn to before me, Feb. 12, 1848.

L. Y. DIXON,
Com'r in Chancery.

And afterwards, to wit, at the December Term, A. D. 1847, the following decree was rendered in this cause, viz:

This cause having been submitted at a former day of this term, upon the *pro confesso* taken herein against John R. Nicholson, and upon the bill, exhibits, answer, depositions and proof taken in the cause, and upon the report of the commissioner, L. Y. Dixon, appointed to take and state an account between complainant and defendant, and upon motion for its confirmation, all questions being reserved until the coming of said report and the motion for its confirmation, and the Chancellor being sufficiently advised therein, doth order, adjudge, and decree, that the negro man Si, or Josiah, mentioned in the pleadings, is the property of and of right belongs to complainant, and that said defendants Truly deliver up said negro to complainant upon the service of a copy of this decree upon them. It is further ordered, adjudged, and decreed, that the report of said commissioner be confirmed in all things. It is further ordered, adjudged, and decreed, that complainant recover of and from the said defendant, Bennet R. Truly, the sum of three hundred and eight $\frac{32}{100}$ dollars, the amount reported by said commissioner to be due from said Bennet R. Truly to complainant; and that complainant recover of and from the said defendant, John H. Truly, the sum of eight hundred dollars, the amount found by the report of said

commissioner to be due from said defendant, John H. Truly, to complainant, and that each of said sums respectively *bear* six per cent. interest per annum from the date of this decree, until paid, and that complainant have writs of execution for each of said sums against each of said defendants for the amount due from each respectively.

It is further ordered, adjudged, and decreed, that complainant recover of defendants the costs in this cause, and that he have execution therefor.

14*th February*, 1848.

STEPHEN COCKE,
Chancellor.

THE STATE OF MISSISSIPPI:

I, J. T. Simms, Clerk of the Superior Court of Chancery of said State, do hereby certify that the above and foregoing pages contain a full, true, and perfect transcript of the record and proceedings now on file in my office, in the case of Ira Nicholson *vs.* J. H. Truly and *al.*

Given under my hand and seal of said court, at the city of Jackson, this 26th day of October, A. D. 1849.

[L. S.]

J. T. SIMMS,
Clerk.

By E. P. RUSSELL,
Deputy Clerk.

Transcript.

THE STATE OF MISSISSIPPI:

SARAH C. NICHOLSON
vs.
JOHN H. TRULY *et al.*
} No. 3431.

Pleas before the Honorable Stephen Cocke, Chancellor of the State of Mississippi, at a Superior Court of Chancery continued and held at the court room in the city of Jackson, on the 14th day of February, A. D. 1849.

Be it remembered, that heretofore, to wit, on the 16th day of May, A. D. 1845, the said complainant by her solicitors came into the Clerk's Office of the Superior Court of Chancery of the State of Mississippi, and filed her certain bill of complaint and procured process to be issued thereon, which bill and process are in the words and figures following, to wit:

To the Honorable Rob't H. Buckner,
Chancellor of the State of Mississippi, at the city of Jackson:

Your oratrix, Sarah C. Nicholson, a citizen of the State of Alabama, humbly complaining, would respectfully represent unto your

Honor, that she is one of the heirs-at-law of Evan Nicholson, deceased, who died intestate some time prior to the year 1835, in the State of Alabama. That at the time of his death he was the owner of considerable negro property, and that administration was granted on his estate to one Lewis Cunningham, of St. Clair county, Alabama. That an application was made to the County Court of St. Clair aforesaid, for a division of the negro property of said intestate, between his legal heirs, on the 5th day of November, 1835, by two of the heirs of said Evan Nicholson, then of full age—John R. Nicholson and Nelson Harlin in right of his wife, who intermarried with one of the heirs of said Evan Nicholson. That the County Court of said county then and there granted the application and ordered a division of said of the negroes of said intestate amongst the children of said Evan Nicholson, of whom your orator is one. Your orator at that time being a minor, John R. Nicholson was, on the 17th November, 1835, appointed his guardian by said court. Your orator would further represent, that upon a division of said negroes, and by virtue thereof your orator became the sole owner of a negro man by the name of Alec, alias Alexander, who came into possession of said guardian as the property of his ward, your orator; all of which will more fully appear by reference to Exhibit *A*, accompanying this bill; a more perfect one is however prayed to be filed as soon as it can be obtained. Your orator would further represent unto your Honor, that his said guardian, without any authority whatever, and to deprive and defraud your oratrix out of her said negro Alec or Alexander, run off and secretly conveyed said negro out of the State of Alabama, to prevent your oratrix from getting possession of said negro. Your oratrix would further represent, that her said negro is now in the possession of Bennet R. Truly, of Madison county, Mississippi, who pretends said negro belongs to John H. Truly, of Holmes county, and not to your oratrix; both of whom are prayed to be made parties to this bill. Your oratrix would further represent, that said Bennet R. Truly and John H. Truly well know that said negro belongs to your orator, and not to them or either of them, and yet they fraudulently withhold the possession thereof from your oratrix. Your oratrix would further represent to your Honor, that she is advised and believes, and so charges the fact to be, that John H. and Bennet R. Truly will run off said negro beyond the jurisdiction of this court, unless they be restrained from so doing by the timely interference of your orator, and your oratrix will forever lose said negro, and the value thereof.

All which actings and doings are contrary to equity and good conscience, and tend to the manifest injury of your oratrix in the premises; and inasmuch as your oratrix is relievable only in a Court of Equity, where matters of this nature are properly cognizable; to the end, therefore, that the said Bennet R. Truly and John H. Truly and John R. Nicholson, whose residence is unknown, all of whom are

prayed to be made parties to this bill, may upon their respective corporal oaths, to the best of their knowledge, information and belief, full, true, direct and perfect answers make to all and singular the matters aforesaid, and that as fully as if the same were here again repeated in the form of interrogatories; may it please your Honor upon a final hearing of this bill, to order, adjudge, and decree to your oratrix the value of the hire of said negro since the same has been in the possession of or claimed by said Bennet R. and John H. Truly, to be paid by said John H. and Bennet R. Truly to your oratrix, and that said negro be decreed by your Honorable Court to be delivered up to your oratrix as her own property.

May it please your honor to grant unto your oratrix the writ of injunction, restraining said John H. and Bennet R. Truly from removing said negro slave beyond the jurisdiction of this Honorable Court, directed to the Sheriff of Madison County, Mississippi, commanding him, the said Sheriff, if the said John H. and Bennet R. Truly fail to give bond and sufficient security to have said negro forthcoming, to abide the further order of your Honorable Court in the premises, to take possession of said negro, and him safely keep until the further order of your Honor in the premises.

May it please your Honor to grant also unto your oratrix the writ of subpœna directed to the said John H. and Bennet R. Truly, commanding them at a certain day, and under a certain penalty to be therein inserted, to be and appear before your Honorable Court, and then and there full, true, direct, and perfect answers make to all and singular the premises, and further to stand, to perform, abide such further decree therein as to your Honor shall seem meet, and to grant unto your oratrix such other or further relief as to your Honor shall seem fit; and as in duty bound, &c.

LAWSON & FORD,
Sol's for Complainant.

THE STATE OF MISSISSIPPI,
Madison County, ss:

Personally appeared before me, Jacob L. Mitchell, a Justice of the Peace in and for said county, Isaac E. Nicholson, who being duly sworn, deposed that the matters and things in the foregoing bill set forth are true, to the best of his knowledge and belief.

ISAAC E. NICHOLSON.

Sworn to and subscribed before me, April 26, 1845.

J. L. MITCHELL, [SEAL.]
J. P.

Fiat of Ch'lr. Buckner.

Let an injunction issue on this bill requiring the defendant, Ben-

net R. Truly, to give bond with good sureties in the penalty of twelve hundred dollars, conditioned that he will hold the slave in the bill mentioned, subject to such decree as may be made herein, and in default of such bond requiring the Sheriff to take and hold possession of said slave until further ordered. Such injunction to issue upon complainant's entering into bond with John J. Lamar and Alex. Robins, as her sureties in the penal sum of twelve hundred dollars with the usual condition.

RO. H. BUCKNER.

April, 1845.

The exhibits referred to in the foregoing bill not found amongst papers, nor amongst the papers in the case to which they were transferred.

Injunction Bond.

THE STATE OF MISSISSIPPI,
Superior Court of Chancery:

Know all men by these presents, that we, Sarah C. Nicholson, John J. Lamar and Alexander Robbins, are held and firmly bound unto John H. and Bennet R. Truly, in the sum of twelve hundred dollars to be paid to the said John H. and Bennet R. Truly, their heirs, executors, administrators, or assigns, for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, firmly by these presents: sealed with our seals, and dated the 15th day of May, one thousand eight hundred and forty-five.

The condition of the above obligation is such that whereas, the above bound Sarah C. Nicholson has this day obtained from the Honorable Robert H. Buckner, Chancellor of the State of Mississippi, an injunction to stay all further proceedings until the same can be heard and determined in the Honorable the Superior Court of Chancery of the State of Mississippi. Now if the said Sarah C. Nicholson, in case the said injunction shall be dissolved, shall within thirty days thereafter well and truly pay and satisfy the said John H. and Bennet R. Truly all damages and costs, and abide by and perform the decree of said Chancery Court, then this obligation shall be void, otherwise the same shall remain in full force and virtue.

SARAH C. NICHOLSON, [SEAL.]
J. J. LAMAR, [SEAL.]
A. R. ROBBINS. [SEAL.]

Signed, sealed, and delivered in the presence of

H. A. A. LAWSON,
by the two last named obligors.

Injunction.

THE STATE OF MISSISSIPPI,
Superior Court of Chancery of the State of Mississippi:

To John H. Truly and Bennet R. Truly, your agents, attorneys and counsellors, greeting:

Whereas, it hath been represented to us in our Superior Court of Chancery on the part of Sarah C. Nicholson, complainant, that she has lately exhibited her bill against you, John H. and Bennet R. Truly, defendants, to be relieved touching the matters in said bill contained. We, therefore, in consideration of the premises and of the allegations in said bill contained, strictly enjoin and command you, the said John H. and Bennet R. Truly, under the penalty of twelve hundred dollars, to be levied of your goods and chattels, lands and tenements to our use; that you absolutely refrain from removing beyond the jurisdiction of this court, the negro man named Alec or Alexander, mentioned in complainants' bill, and that you, the said John H. Truly and Bennet R. Truly, give bond with good and sufficient security in the penalty of twelve hundred dollars, conditioned to hold said negro subject to such order or decree as may be rendered by the court in this suit, payable to the complainant, or upon failure in giving said bond, that you, the Sheriff of Madison County, take possession of said negro, and hold him subject to the further order of the court, and from any further proceedings against the said complainant touching any of the matters in said bill contained, until our said court shall make another order to the contrary.

Witness the Hon. Robert H. Buckner, Chancellor of the State of Mississippi, at the court-room in the town of Jackson, the first Monday in December, in the year of our Lord one thousand eight hundred and forty-four, and of the sovereignty and Independence of the United States of America the sixty-ninth.

Issued the 16th day of May, 1845. To the Sheriff of Madison county.

ROBERT HUGHES,
Clerk.
B. W. W. YERBY,
Dep. Clk.

Recorded 17th May, 1845.

I have truly executed this writ of injunction, and have taken bond of J. H. and B. R. Truly, with Kinsman Divine as security, according to the command of this writ, which is herewith returned with said writ, 20th day of May, 1845.

SAML. HAMBLIN,
Sheriff.

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Forthcoming Bond.

THE STATE OF MISSISSIPPI,
Madison County:

Know all men by these presents, that we, Bennet R. Truly, John H. Truly, and Kinsman Divine, are held and firmly bound unto Sarah C. Nicholson, in the penalty of twelve hundred dollars, for the payment of which well and truly to be paid, we bind ourselves and each of our heirs, executors, administrators and assigns, jointly, severally, and firmly by these presents: signed with our hands, and sealed with our seals, and dated this 20th day of May, A. D. 1845.

The condition of the above bond is this: that whereas, the above named Sarah C. Nicholson, sued out an injunction from the Superior Court of Chancery of said State, on the 16th day of May, 1845, enjoining the said Bennet R. Truly, John H. Truly, their agents, attorneys, or counsellors, from removing a certain negro slave, Alec or Alexander, beyond the jurisdiction of said Superior Court of Chancery.

Now, if the said Bennet R. Truly and John H. Truly, or their surety, shall have the said negro slave Alec or Alexander, forthcoming, to abide the order, judgment or decree of said court, then the above bond is to be null and void, otherwise to be and remain in full force and effect.

JOHN H. TRULY, [SEAL.]
B. R. TRULY, [SEAL.]
KINSMAN DIVINE. [SEAL.]

(*Subpœna.*)

THE STATE OF MISSISSIPPI.

Superior Court of Chancery of the State of Mississippi, to wit: to John H. and Bennet R. Truly, greeting:—

For certain causes offered before us, in our Superior Court of Chancery, of the State of Mississippi, we command you, and strictly enjoin, that laying all other matters aside, and notwithstanding any excuse, you personally appear at a Superior Court of Chancery, to be holden at the court-room in the city of Jackson, on the first Monday in June, next ensuing, to answer a bill of complaint exhibited against you, by Sarah C. Nicholson, complainant, in our said court, and further to do and receive what our said court shall have considered of this behalf; and this you shall in no wise omit, under the penalty of one hundred dollars, as well the consequences that may fall thereon; and have then and there this writ.

Witness the Honorable Robert H. Buckner, Chancellor of the State of Mississippi, at the city of Jackson, the first Monday in December, in the year of our Lord one thousand eight hundred and forty-four, and of the sovereignty and Independence of the United States of America the sixty-ninth.

Issued the 16th day of May, 1845, to the Sheriff of Madison county to execute and return.

ROB. HUGHES,
Clerk.
By W. W. YERBY,
Dep. Clerk.

Executed on B. R. Truly 20th May, 1845.

SAML. HAMBLIN,
Sheriff.
By JESSE BROWN,
Deputy.

Order of Publication.

And at the June term, A. D. 1845, the following order of publication was entered on the minutes of said court, to wit:—

Upon opening the complainant's bill, the court being satisfied that the defendant, John R. Nicholson, is not a resident of this State, but resides beyond the limits thereof, and beyond the jurisdiction of this court, so that the ordinary process of this court cannot be executed upon him, it is therefore ordered, that unless the defendant Nicholson enter his appearance herein, on or before the next term of this court, to be held at the court-room in the city of Jackson, on the first Monday in the month of December next, and plead, answer, or demur to the complainant's bill of complaint, the same will be taken for confessed, set for hearing *ex parte*, and the matters thereof decreed accordingly.—*Mississippi Creole.*

Answer of B. R. Truly.

And afterwards, to wit, on the 6th day of December, 1845, the following answer of B. R. Truly was filed, to wit:—

The separate answer of Bennet R. Truly, to a bill of complaint exhibited against him and others, in the Superior Court of Chancery, of the State of Mississippi, by Sarah R. Nicholson.

This respondent now and at all times saving and reserving, &c., for answer to so much of said bill, as he is advised is material for him to answer unto, says:—

That as to the allegations of complainant, that she is one of the heirs of Evan Nicholson, deceased, and that said Evan died previous to the year 1835, in the State of Alabama, and that he left considerable property, and that administration was granted upon his estate to one Lewis Cuningham, and that application was made to the County Court of St. Clair county, Alabama, for a division of his property, and that an order was granted, and that a division was made, and that complainant by virtue thereof, became the owner of

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a negro, by the name of Alec or Alexander, and that complainant was a minor, and that John R. Nicholson was appointed her guardian and obtained possession of said negro; he knows nothing, and if he is to be affected thereby, requires strict proof.

Respondent knows nothing of said John R. Nicholson's running said negro from the State of Alabama, or if he done so with what intent, and for what purpose he done so.

Respondent admits that he has in his possession a negro by the name of Alec or Alexander, which he purchased in the year 1836, of one John R. Hubert, and that he gave a full and fair consideration for said negro, and that he made said purchase without any knowledge that complainant or any one else had any claim to said negro, save his vendor.

Respondent further states, that he did sell said negro to his co-defendant, and delivered him to said John H. Truly; that afterwards respondent made a different contract in relation to said negro, the precise import of which respondent cannot now state, not having a copy of the same, but which he will procure and file as Exhibit No. 1, and when so filed, he prays may be taken as part of this answer.

Respondent denies the allegation that he knows said negro belongs to complainant, and that he fraudulently withholds him from complainant.

Respondent having fully answered, prays to be dismissed with his reasonable costs, &c.

FITCH & MILES,
Att'ys for Def'ts.

THE STATE OF MISSISSIPPI,
Yazoo County:

Personally appeared before the undersigned Judge of the 5th Judicial District of said State, Bennet R. Truly, who says on oath, that the facts stated in the foregoing answer as of his own knowledge are true, and those stated from information he believes to be true.

B. R. TRULY.

Sworn to and subscribed this 21st day of November, A. D. 1845.

R. C. PERRY,
Judge, &c.

Answer of J. H. Truly.

And on the 6th of Dec., 1845, the following answer of J. H. Truly was filed, to wit:—

The separate answer of John H. Truly to a bill of complaint exhibited against him *et al.* in the Superior Court of Chancery of the State of Mississippi, by Sarah C. Nicholson.

This respondent now and at all times serving and reserving, &c.,

for answer to so much of said bill as he is advised is material for him to answer unto, says:—

That he has no knowledge of the various charges in complainant's bill in relation to her heirship, or the mode or manner that complainant obtained a right or title to said negro, if she ever did acquire any right or title to the same; and if he is to be affected thereby requires strict proof.

Respondent knows nothing in relation to the charge in the bill that said John R. Nicholson was the guardian of complainant, and that he run off said negro; neither does he know anything of the sale of said negro by said Nicholson; neither does he know that said negro belongs to complainant; and of this he requires strict proof.

Respondent admits that he once purchased a negro by the name of Alec or Alexander, of said B. R. Truly, but that subsequently a different contract was made, the precise terms of which he cannot now state, but will procure and file a copy of the same, which when filed he prays may be taken as part of this answer, to be marked Exhibit No. 1.

Respondent denies all fraud and combination, and having fully answered, prays to be dismissed, &c.

FITCH & MILES,
Att'ys for Def'ts.

THE STATE OF MISSISSIPPI.
Yazoo County:

Personally appeared before the undersigned Judge of the Fifth Judicial District of said State, John H. Truly, who says on oath, that the facts stated in the foregoing answer as of his own knowledge are true, and those stated from information he believes to be true.

JOHN H. TRULY.

Sworn to and subscribed before me this 27th of November, A. D. 1845.

R. C. PERRY.

Exhibit No. 1 *to Ans.*

Exhibit No. 1 to answer is in the words and figures following, to wit:

This Indenture, made and entered into between John H. Truly, of the County of Holmes, and State of Mississippi, of the first part, and Bennet R. Truly, of the County of Madison, and State aforesaid, of the second part, witnesseth, that whereas the said party of the first part is legally and equitably bound as security for the said party of the second part in the sum of six thousand five hundred and seventy-five dollars, or thereabout, in the following manner, viz: three thousand dollars in the Union Bank, of the State of

Mississippi, and three thousand five hundred and seventy-five dollars to one John R. Nicholson (or some one else), which debt is now in suit in the Circuit Court of the United States, at Jackson, Mississippi, under the style of Wanzer and Harrison against B. R. Truly *et al.*, and the said party of the second part being desirous to secure the said party of the first part from loss or damage in either of the above described debts, did upon the 5th day of February, in the year of our Lord one thousand eight hundred and forty, execute his bill of sale as well as to deliver the following named negroes to the said party of the first part (viz.), Jacob Phell, Armsted, Jack, Alexander, Cyms, Ruth, Francis, and her children, Alphons and Ailsey, Mary and her two children, Prentice and Sarah, or Stuart and Isabella, Angelina, Jim, Mira, Amanda, Carolina, and William, being in all twenty in number at that time, but at this time twenty-one, owing to the increase of one of females (Francis), which slaves are to be marked under the control and direction of the said party of the first part, and the neat profit arising from the labor to be applied to the payment of said debts until they are liquidated, at which time the said negro slaves are all to revert back to the said party of the second part, or his heirs or assigns, or their equal value in current money of the United States, provided nevertheless, that in case of the death of any of said slaves the said party of the first part will only be bound to account for such as may be living at the time of the liquidation of said debts, and provided moreover, that in the event of its being necessary to sell a part of said slaves to aid in the settlement of said debts, then and in that event the said party of the first part will only be expected by the said party of the second part, to account for such as may be remaining in his possession at the final liquidation of said debts.

And, moreover, in case of the death of said party of the first part before the extinction of said debts, or any part thereof, then and in that event the said slaves, or such of them as may be in the possession of said party of the first part, at the happening of such an event shall revert back to the said party of the second party, or to his heirs or assigns, he or they giving security to the heirs or assigns of said party of the first part for the faithful discharge of said debts which may then be remaining.

Given under our hands and seals this 25th day of October, 1841.

JOHN A. TRULY, [SEAL.]
B. R. TRULY. [SEAL.]

THE STATE OF MISSISSIPPI,
Holmes County.

Personally appeared before me, John F. Williams, an acting Justice of the Peace in and for the County aforesaid, John H. Truly and Bennet R. Truly, who both acknowledge before me that they

signed, sealed, &c., the within instrument, for the purposes and considerations as therein expressed.

Given under my hand and seal this the 27th October, A. D. 1849.

J. F. WILLIAMS. [SEAL.]

And afterwards, to wit, on the 26th day of February, 1846, the following proof of publication was filed, to wit:—

THE STATE OF MISSISSIPPI,
Madison County, ss:

Personally appeared before the undersigned, an acting Justice of the Peace in and for said County, John A. Montgomery, Publisher of the Mississippi Creole, a weekly newspaper, printed and published in Canton, in said County, who having been duly sworn, deposed that the annexed advertisement of Sarah C. Nicholson, against John H. Truly *et al.*, was published in said newspaper for eight weeks in succession, in the following numbers, and at the following times, viz:—

In No. 1, vol. iv., September 20; in No. 2, vol. iv., September 27; in No. 3, vol. iv., October 4; in No. 4, vol. iv., October 11; in No. 5, vol. iv., October 18; in No. 6, vol. iv., October 25; in No. 7, vol. iv., November 1; in No. 8, vol. iv., November 8; in No. 9, vol. iv., November 15.

Sworn to and subscribed before me this 3d day of December, A. D. 1845.

J. N. MONTGOMERY,
Publisher of the Mississippi Creole.

Witness my hand and seal.

G. A. CAMERON, [SEAL.]
J. P.

THE STATE OF MISSISSIPPI,
In the Superior Court of Chancery.

June Term, 1845.

SARAH C. NICHOLSON
vs.
JOHN H. TRULY *et al.* } 3431.

Upon opening the complainant's bill of complaint the court being satisfied that the defendant, John R. Nicholson, is not a resident of this State, but resides beyond the limits thereof, and beyond the jurisdiction of this Court, so that the ordinary process of this Court cannot be executed upon him, it is therefore ordered that unless the said defendant, Nicholson, enter his appearance herein on or before the next term of this Court, to be held at the Court-room, in the City of Jackson, on the first Monday in the month of Decem-

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ber next, and plead, answer, or demur to the complainant's bill of complaint, otherwise the same will be taken for confessed against him, set for hearing *ex parte*, and the matters thereof decreed accordingly. And it is further ordered, that a copy of this order be published in the *Mississippi Creole*, a newspaper printed in the town of Canton, once a week for two months successively.

ROBERT HUGHES,
Clerk.

By J. H. HUGHES,
D. C.

Sept. 20, 1845.

And I, the said Justice, do further certify, that a file of said *Mississippi Creole*, containing said advertisement, has been produced before me and compared with said copy, and that the same is correct and truly made.

Witness my hand and seal, this 3d day of December, A. D. 1845.

G. A. CAMERON, [SEAL.]
J. P.

THE STATE OF MISSISSIPPI,
Madison County, ss:

Personally appeared before the undersigned, an acting Justice of the Peace in and for the said County, D. W. Murphy, Printer of the *Mississippi Creole*, a weekly newspaper, printed and published in Canton, in said County, who having been duly sworn deposed that the annexed advertisement of Sarah C. Nicholson *vs.* John H. Truly *et al.*, was published in said newspaper for nine weeks in succession, in the following numbers and at the following times, viz: in No. 1, vol. iv. Sept. 20; in No. 2, vol. iv. Sept. 27; in No. 3, vol. iv. Oct. 4; in No. 4, vol. iv. Oct. 11; in No. 5, vol. iv. Oct. 18; in No. 6, vol. iv. Oct. 25; in No. 7, vol. iv. Nov. 1; in No. 8, vol. iv. Nov. 8; in No. 9, vol. iv. Nov. 15; all in the year of our Lord 1845.

D. W. MURPHY,
Printer of the Mississippi Creole.

Sworn to and subscribed before me, this 23d day of June, A. D. 1847.

Witness my hand and seal.

J. L. MITCHELL, [SEAL.]
J. P.

THE STATE OF MISSISSIPPI,
In the Superior Court of Chancery.
June Term, 1845.

SARAH C. NICHOLSON
vs. } 3431.
JOHN H. TRULY *et al.*

Upon opening the complainant's bill of complaint, the Court being satisfied that the defendant, John R. Nicholson, is not a resident of this State but resides beyond the limits thereof, and beyond the jurisdiction of this Court, and that the ordinary process of this Court cannot be executed upon him, it is therefore ordered that unless the said defendant, Nicholson, enter his appearance herein on or before the next term of this Court, to be held at the Court-room in the City of Jackson, on the first Monday in the month of December next, and plead, answer, or demur to the complainant's bill of complaint, otherwise the same will be taken for confessed against him, set for hearing *ex parte*, and the matters thereof decreed accordingly. And it is further ordered, that a copy of this order be published in the *Mississippi Creole*, a newspaper printed in the town of Canton, once a week for two months successively.

ROBERT HUGHES,
Clerk.
By J. H. HUGHES,
D. C.

Sept. 20, 1845.

And I, the said Justice, do further certify, that a file of said *Mississippi Creole*, containing said advertisement, has been produced before me and compared with said copy, and that the same is correct and truly made.

Witness my hand and seal this 23d day of June, A. D. 1847.
J. L. MITCHELL, [SEAL.]
J. P.

Order of Court.

And afterwards, to wit, on the 11th day of February, A. D. 1848, the following order was entered on the minutes of said Court, to wit:—

The motion to set aside the decree herein having been heard and fully understood, it is ordered that said decree be, and the same is hereby set aside, and upon motion of the parties by their counsel it is ordered that it be referred to L. V. Dixon, a Commissioner of this Court, to take and state an account herein between the parties, according to law and the rules of this Court, and that he report with all convenient speed, and all other matters are reserved until the coming in of said report.

1929.

Commissioner's Report.

And afterwards, to wit, on the 12th day of February, A. D. 1848, the Commissioner filed the following report:—

The undersigned, Commissioner of said Court, to whom it was referred to take and state an account between the parties in the foregoing case, would report as follows, to wit: that upon the taking of the testimony of A. H. Lamar, a witness produced by complainant, he finds thereupon, and from the pleadings in said cause, that the negro boy Alick, the subject of controversy in said cause, came to the possession of Bennet R. Truly in December, 1836, and remained in his possession up to the time of his sale to John H. Truly, on the 5th day of February, 1840, as by bill of sale appears, in whose possession he has remained to the present time, and that the said boy's hire during those years was worth one hundred and twenty-five dollars per year, which will show that said Bennet R. Truly is indebted to complainant for the hire of said negro, was, for three years and one month, three hundred and eighty-five dollars, and that the said John H. Truly is indebted to said complainant for eight years' hire of said boy, amounting to one thousand dollars at the date hereof. All of which is respectfully submitted.

L. V. DIXON,
Commissioner.

Feb. 12, 1848.

Deposition of Lamar.

The deposition of A. H. Lamar, taken before me, L. Y. Dixon, a Commissioner of the Superior Court of Chancery, upon a reference to take and state an account between the parties in two suits in said Court, of the following styles, to wit:—

Ira Nicholson *vs.* Jno. H. Truly *et al.*, 3433, and

Sarah C. Nicholson *vs.* Jno. H. Truly *et al.*, 3431.

By consent of the parties, notice being received, and said Lamar being of lawful age, and first duly sworn, deposeth and saith:—

Int. 1st, by compl't. Do you or not know a negro boy, named Si or Josiah? if yea, in whose possession was he when you first knew him and where?

Ans. I knew the boy; he belonged to Evan Nicholson, in South Carolina, who removed to Alabama, and there died, about the year 1834. The negro was then in the possession, after the death of said Evan, of John R. Nicholson, as guardian of Ira Nicholson.

Int. 2. Have you seen said boy since? if yea, when and where?

Ans. I have seen him since, in the possession of Bennet R. Truly, in Madison County, Mississippi, taken by the sheriff of said county, by virtue of legal process against John H. Truly *et al.* in favor of Ira Nicholson.

Int. 3. What is the value of the hire of said negro in the years 1837, 1838, 1839?

Ans. His hire, I think, would annually average at least one hundred dollars.

Int. 4th. What would he have hired for during the years 1840, 1841, 1842, 1843, 1844, 1845, 1846, and 1847, by the year?

Ans. Some years he would have hired for more than a hundred dollars, other years about that sum; I think his hire would have averaged $100 per year for those years.

Int. 5th. Do you know a negro man named Alick? If so, in whose possession was he when you first knew him, and in whose when you last knew him?

Ans. I do; when I first knew him he was in the possession of John R. Nicholson, as guardian of Sarah C. Nicholson; and when I last knew him, he was arrested, out of said Bennet R. Truly, at the suit of said Sarah C. Nicholson.

Int. 6. What would be the annual hire of said boy in 1837, 1838, and 1839, and also in 1840, 1841, 1842, 1843, 1844, 1845, 1846, and 1847.

Ans. The boy could have been hired upon an average of one hundred and twenty-five dollars per year during any of those years.

And further deponent saith not.

A. H. LAMAR.

Sworn to before me, Feb. 12, 1848.

L. V. DIXON,
Commissioner in Chancery.

Final Decree.

And afterwards to wit, on the 14th day of February, 1848, the following decree was rendered in this cause, to wit:—

This cause having been submitted at a former day of this term upon the *pro confesso* taken against John R. Nicholson, and upon the bill, answers, exhibits, depositions, and proof taken in the cause, and upon the report of the commissioner, and for its confirmation all questions having been reserved for the coming in of said report, and the chancellor being sufficiently advised therein, doth order, adjudge, and decree, that the said defendants, Truly, deliver up to the complainant the said negro man Alick, or Alexander, upon the service of a copy of this decree, and that said negro is the property and of right belongs to said complainant, and that said defendants, Truly, cease all claim thereto. It is further ordered and decreed that the report of the commissioner, L. V. Dixon, stating the account between complainant and defendants, Truly, be, and the same is hereby in all things confirmed. It is further ordered, adjudged, and decreed, that the said defendant, Bennet R. Truly, pay to said complainant the sum of three hundred and eighty-five dollars, the sum reported to be due from him to complainant, to be on interest, at the rate of six per cent. per annum from the date of

1950.

this decree until paid, and that execution may issue upon this decree against said Bennet R. Truly for said sum.

It is also ordered, adjudged, and decreed that complainant recover of defendant, John H. Truly, the sum of one thousand dollars, reported by said commissioner to be due from John H. Truly to complainant, to bear interest from the date of this decree, at the rate of six per cent. per annum, and that execution may issue upon this decree against said John H. Truly, for said sum.

It is further ordered, adjudged, and decreed that the defendants pay to complainants the costs of this suit, and that execution issue therefor.

STEPHEN COCKE,
Chancellor.

14*th February*, 1848.

THE STATE OF MISSISSIPPI:

I, J. T. Simms, Clerk of the Superior Court of Chancery of said State, do hereby certify that the foregoing 23 pages contain a true and correct transcript of the action and proceedings had and done in the within entitled case of Sarah C. Nicholson *vs.* John H. Truly *et al.*, No. 3431, as the same remains of record in this Court.

Given under my hand and seal of office, at the court room, in the [L. S.] City of Jackson, the 26th day of October, A. D. 1849.

J. T. SIMMS,
Clerk.
By E. P. RUSSELL,
Deputy Clerk.

Transcript.

WANZER & HARRISON
vs.
TRULY & MCCAULEY, Garnishees, &c.

Pleas before the Honorable Samuel J. Gholson, District Judge of the United States, at a Circuit Court of the United States, held at the town of Jackson, in and for the Ninth Circuit and Southern District of Mississippi, at the November term, in the year of our Lord one thousand eight hundred and thirty-nine.

Be it remembered, that heretofore, to wit, on the eleventh day of April, in the year of our Lord one thousand eight hundred and thirty-nine, came Wanzer and Harrison by Buckner and Stewart, their attorneys, into the clerk's office of the court aforesaid, and filed the following affidavit and petition for a writ of garnishment against Bennet R. Truly and Hamilton B. McCauley, as garnishees of T. W. & J. R. Hubert, in the words and figures following, to wit:—

This day, Edwin C. Estes, agent for Wanzer and Harrison, personally appeared before me, William Burns, Clerk of the Circuit

Court in the District aforesaid, and made oath in due form, that he does not believe that the defendants, S. B. Sheldon and Fletcher W. and John R. Hubert, or either of them, have in their possession visible property upon which a levy can be made sufficient to satisfy an execution which may or might issue on the judgment in the above stated case.

EDWIN C. ESTES.

Sworn to and subscribed the 11th April, 1839.

WM. BURNS,
Clerk.

Edwin C. Estes, agent for Wanzer and Harrison in the above stated case, comes into the clerk's office and suggests to the clerk that Bennet R. Truly and Hamilton B. McCauley are indebted to or have in their hands effects belonging to Fletcher W. and John R. Hubert, or one of them, and asks that a writ of garnishment for said Bennet R. Truly and Hamilton B. McCauley issue, returnable, &c.

EDWIN C. ESTES,
Agent,
For WANZER & HARRISON.

April 11th, 1839.

Whereupon, the following writ of garnishment issued, to wit:—

UNITED STATES OF AMERICA,
Southern District of Mississippi, set:

The President of the United States to the Marshal of the Southern District of Mississippi, greeting:

Whereas, Moses Wanzer and Jabez Harrison, citizens of the State of New York, lately in our Circuit Court for the Mississippi District, by judgment of said court, recovered against Sam'l B. Sheldon, Fletcher W. Hubert, and John R. Hubert, the sum of $4,213 $\frac{56}{100}$, with interest and costs from the 8th Nov. 1837.

And whereas, it appears to the satisfaction of said court, on affidavit filed, that the said Sheldon, T. W. Hubert, and John R. Hubert have no visible property upon which a levy can be made sufficient to satisfy said judgment and costs, and the said plaintiffs having suggested that Bennet R. Truly and Hamilton B. McCauley, of said District, are indebted to the said Sheldon and Huberts, or have effects of theirs in their hands or possession—

You are therefore hereby commanded to make known to and summon the said Bennet R. Truly and Hamilton B. McCauley, that they be and appear before the Judges of the Circuit Court of the United States for the Southern District of Mississippi, at a court to be held at Jackson, in said District, on the first Monday of May next, then and there to answer, under oath, whether they or either

of them is indebted to the said S. B. Sheldon, F. W. Hubert, and John R. Hubert, and in what sum or what effects of theirs they or either of them have in his or their hands or possession, or had at the time of the service of this summons, and whether they know of any other persons indebted to said S. B. Sheldon & Co., or either of them, or have effects of theirs in their hands or possession.

And have you then and there this writ.

Witness, the Honorable Roger B. Taney, Chief Justice of the [L. S.] Supreme Court of the United States at Jackson, the first Monday of November, 1838, and in the 63d year of our Independence.

WM. BURNS,
Clerk.

Marshal's Return.

Made known to the defendants 11th April, 1839.

WM. M. GWIN,
Marshal.
Per J. F. COOK,
Deputy Marshal.

Afterwards, to wit, at a Circuit Court of the United States for the District aforesaid, held on the sixth day of May, in the year of our Lord one thousand eight hundred and thirty-nine, Bennet R. Truly is summoned, &c. in the case of Moses Wanzer and Jabez Harrison, plaintiffs, against Samuel B. Sheldon, Fletcher W. Hubert, and John R. Hubert, defendants, to answer, &c. as garnishees, personally appeared in open court and made oath that he is not indebted to the said defendants, or either of them, in any sum of money, nor was he indebted to them, or either of them, at the time he was summoned to appear, &c., otherwise than is hereafter to be stated—that is to say, on the 1st day of February, in the year 1837, he executed a promissory note for the sum of three thousand five hundred and seventy-five dollars, payable twelve months after date at the banking-house of the Mississippi & Alabama Railroad Company at Brandon, with ten per cent. interest thereon from the time it became due until paid to A. W. Robinson, which note was indorsed by said Robinson to William O. Aldridge, and by him to the defendant, John R. Hubert. This note was sent, as affiant has been informed and believes, to Hamilton McCauley for collection. Affiant states that he has been informed and believes that said note was sent to said McCauley some time in the year 1837, accompanied with directions to place the amount of money collected on said note to the payment of a draft or bill of exchange drawn by the said Hubert, with one Josiah Bonner and others, his sureties, for the sum of thirty-seven hundred and nine dollars and fifty cents upon Bogart and Hoops, and by them accepted; upon which draft suit has been

commenced, as affiant has been informed and believes, at the May Term, 1837, of the Circuit Court of the United States at Jackson, in the name of the United States Bank against said Hubert and Bonner, and upon which judgment was rendered at the November Term, 1837, of said court; which judgment was, as affiant has been informed and believes, paid by the said Bonner, surety as aforesaid. Now, if the court shall believe that the interest, right or property of said note is in said Hubert, then this affiant owes him the amount of said note and interest thereon. And affiant states that this is all and the only way in which he was indebted at the time of his being summoned, &c., as aforesaid, or is now indebted to the said defendants, or either of them. Affiant states that the said note is now in the possession of said McCauley, and has not been paid in whole or in part by this affiant. He also states, that he has been informed and believes, that said McCauley has in his hands a note payable F. W. and J. R. Hubert or bearer, drawn by C. C. Arnett, for the sum of one hundred and eighty-six dollars, dated 27th of January, 1837, due one day after date and bearing interest from the 1st of January, 1837. He also states that he has been informed and believes, that said McCauley has in his hands a not drawn by Josiah Bonner in favor of John W. Ray or bearer for the sum of four hundred and sixty-eight dollars, bearing date the first of May, 1837, and payable one day after date; upon which note, affiant has been informed and believes, a credit for the sum of one hundred and eighty-four dollars and forty-four cents was given on the 10th of August, 1837, and also a credit of twenty dollars given on the 18th of August of the same year; which said two last notes, as affiant has been informed and believes, were sent by the said John R. Hubert to the said McCauley to be collected, and the proceeds to be applied in the manner in which the money due on affiant's note was to be applied, as aforesaid. Affiant states that these are all the debts which he knows that are in any way owing to the said defendants, or either of them, and that these are all the effects of any kind in any person's hand, that he knows of, belonging to the said defendants, or either of them; nor did he have, at the time he was summoned, &c., nor has he now any of the effects of the said defendants, or either of them, in his hands, than as before stated. And now having fully answered, this affiant prays to be hence dismissed, &c.

B. R. TRULY.

Sworn to before me 6th May, 1839.

WM. BURNS,
Clerk.

Also, Hamilton McCauley summoned, &c. in the case of Moses Wanzer and Jabez Harrison, plaintiffs, against Samuel B. Sheldon, Fletcher W. Hubert, and John R. Hubert, defendants, to answer, &c. as garnishee, personally appeared in open court and made oath, that he is not indebted to the said defendants, or either of them, in

any sum of money, nor was he indebted to them, or either of them, at the time he was summoned, &c., nor has he now nor did he have at the time he was summoned, &c., any of the effects of the said defendants, or either of them, otherwise than is hereafter to be stated; that is to say, by a letter dated in January, 1837, John R. Hubert, one of the defendants in the foregoing suit, sent to this garnishee a note on Bennet R. Truly for the sum of three thousand five hundred and seventy-five dollars, payable to A. W. Robinson, bearing date the 1st of February, in the year 1837, and due twelve months after date, negotiable at the banking house of the Mississippi and Alabama Railroad Company, at Brandon, with ten per cent. interest from the time it was due until paid; said note was indorsed in blank by A. W. Robinson, Wm. O. Aldridge, to the said Hubert. The said Hubert, at the time he sent the foregoing note to this respondent, sent another note on C. Arnett for the sum of one hundred and eighty-six dollars and fifty three cents, payable to F. W. and J. R. Hubert, or bearer, bearing date the 27th January, 1837, with interest from the 1st day of January, 1837. The said Hubert, at the time he sent the foregoing notes, also sent another note to this respondent, drawn by Josiah Bonner, in favor of J. W. Ray, or bearer, for the sum of four hundred and sixty-eight dollars, bearing date the ninth May, 1837, and due one day after date, upon which note a credit for the sum of one hundred and eighty-four dollars and forty-four cents is indorsed, bearing date 10th of August, 1837, and also a credit of twenty dollars given the 18th of August, 1837. The note of Arnett aforesaid was also due one day after date. At the same time the said Hubert sent the notes aforesaid, he directed this respondent in writing, by the same letter inclosing the notes, to collect the aforesaid notes, and to apply the money, when collected upon them, to the payment of a draft, drawn by the said Hubert, and the said Josiah Bonner and others, his sureties, for the sum of thirty-seven hundred and nine dollars and fifty-five cents, and accepted by Boggart and Hoopes, upon which draft suit had been commenced in the Circuit Court of the United States, at Jackson, in the name of the United States Bank against the said John R. Hubert, and also in the name of the same against said Josiah Bonner, as alleged by said Hubert; said suit was returnable at the May Term, 1837, of said court, and judgment upon the same was expected to be obtained by said Hubert, at the November Term, 1837, of said court, and was obtained at that time, as this respondent believes. This respondent states that none of the money due on the aforesaid notes so sent to him to be collected was ever collected or applied in the manner said Hubert directed, but the same are now in his hands. He states that he believes that the said Bonner has paid off and discharged the judgment aforesaid, obtained against him as the said Hubert's surety, on the bill of exchange aforesaid.

Now if this honorable court shall think that the property and

right to the notes aforesaid is in the said John R. Hubert than this respondent has in his hands the said notes, the effects of the said Hubert; and this respondent does not know of any one else who owes to or has any other effects of the said defendants, or either of them, in their possession; nor has this respondent any other effects of the said defendants, or either of them, in his possession; nor did he have at the time he was summoned, &c., than as before stated; and now having answered, &c., he prays to be hence dismissed with his reasonable costs, charges, &c.

HAMILTON McCAULEY.

Sworn to before me, the 6th May, 1839.

WM. BURNS,
Clerk.

And afterwards, to wit, at the said November Term of the court aforesaid, to wit, on the sixteenth day of November, in the year of our Lord one thousand eight hundred and thirty-nine (until which time this cause was regularly continued), came as well the said Wanzer and Harrison as the said garnishees, Truly and McCauley, by their respective attorneys, and this cause is submitted to the court on the several answers of said garnishees, and the court being sufficiently advised of and concerning the same, doth adjudge that the plaintiffs recover against the garnishee, Bennet R. Truly, the sum of three thousand five hundred and seventy-five dollars, according to his answers filed, together with their costs and charges by them in this behalf expended, and that they have execution for the same; and it appearing to the satisfaction of the court, from the answer of the garnishee, McCauley, that he is not indebted as the plaintiffs have suggested, it is ordered that he be discharged from said garnishment.

And afterwards, to wit, on the 15th day of February, A. D. 1840, the following execution of *fieri facias* issued out of the Clerk's Office of the Court aforesaid, against the said defendant, by virtue of the foregoing judgment, in the words and figures, to wit:—

CIRCUIT COURT OF UNITED STATES,
Southern District of Mississippi, sct:

The President of the United States to the Marshal of the Southern District of Mississippi, greeting:—

We command you that of the goods and chattels, lands and tenements of Bennet R. Truly, late of your District, you cause to be made the sum of three thousand five hundred and seventy-five dollars, which Moses Wanzer and Jabez Harrison, under the firm of Wanzer & Harrison, lately in our Circuit Court for the District aforesaid, have recovered against him as garnishee of one John R. Hubert, according to his answer filed, with interest on said sum at 8 per centum per annum, from the 15th day of November, 1839,

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until paid; also the sum of thirty-nine $\frac{50}{100}$ dollars for costs by them in this behalf expended, whereof the said Bennet R. Truly is convicted, as appears to us of record; and that you have the said moneys before the Judge of our said Court, on the first Monday of May next, to render unto the said plaintiffs for their demands and costs aforesaid; and have then and there this writ.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at Jackson, the first Monday of November, A. D. one thousand eight hundred and thirty-nine, and in the sixty-fourth year of the Independence of the United States of America. [L. S.]

Issued the 15th day of February, A. D. 1840.

WM. BURNS,
Clerk.

Marshal's Return.

Levied this execution 12th April, 1840, on the following negro slaves, viz: Thomas, Jane, Sam, Bob, Lely, Murder, Albert, Reer, Wimm, and Jehira. Took a forthcoming bond for their delivery at the door of the court-house in the city of Jackson, on the 4th May, 1840, with John H. Truly surety, which property not being delivered according to the stipulation of said bond, it is herewith returned forfeited. 4th May, 1840.

WM. M. GWIN,
Marshal.
Per JOHN F. COOK,
Deputy.

Copy of Forthcoming Bond.

Know all men by these presents, that we, Bennet R. Truly, Jno. H. Truly, citizens of the State of Mississippi, are held and firmly bound unto Moses Wanzer and Jabez Harrison, under the firm of Wanzer & Harrison, in the just and full sum of seven thousand two hundred and nineteen and cents, lawful money of the United States, to be paid to the said Wanzer & Harrison, their executors, administrators or assigns; to which payment well and truly to be made, we bind ourselves and each of us, our executors and administrators, jointly and severally firmly by these presents: sealed with our seals, and dated this 12th day of April, eighteen hundred and forty.

The condition of this obligation is such, that whereas the said Wanzer & Harrison, have sued out of the Circuit Court of the United States, for the Southern District of Mississippi, a writ of *fieri facias*, against the goods and chattels, lands and tenements of the above bound B. R. Truly, for the sum of three thousand five hundred and seventy dollars and cents, with interest thereon from the 15th day of November, eighteen hundred and thirty-nine, on said sum, at the rate of eight per centum per annum until paid,

and the further sum of thirty-nine dollars and fifty cents, for their costs incurred thereon, which writ of *fieri facias* has been levied by the Marshal of the said district, upon the following described property, viz: negro slaves, viz: Jane, Thomas, Sam, Bobb, Lely, Murden, Albert, Kur, Winny, and Jehira, the property of the said B. R. Truly, which said property is suffered to remain in the possesion of the above bound B. R. Truly, upon his executing this bond with the above named Jno. H. Truly, surety therein; and the said defendants and sureties agree that said property shall be delivered and sold in the city of Jackson, at the front door of the State House.

Now, if the above bound B. R. Truly do and shall well and truly deliver the said property to William M. Gwin, Marshal of the district aforesaid, at the front door of the State House, in the city of Jackson, on the 4th day of May next ensuing, by twelve o'clock noon of that day, to be disposed of according to law, in discharge of the aforesaid writ of *fieri facias*, then and in that case the above obligation to be null and void, otherwise to remain in full force and virtue.

(Signed) B. R. TRULY, [SEAL.]
JOHN. H. TRULY, [SEAL.]

UNITED STATES OF AMERICA,
Southern District of Mississippi, Circuit Court U. S.:

I, William H. Brown, Clerk of said Court, do hereby certify, that the foregoing eleven pages contain a full, true, and complete transcript of the record of the judgment in the case herein named, together with the proceedings thereon, as the same now remain of record, and on file in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at Jackson, this 12th day of January, A. D. 1843.

[L. S.] W. H. BROWN,
Clerk.
Per CHS. H. ROGERS,
Dep. Clerk.

Copy of Interrogatories and Commission.

UNITED STATES OF AMERICA,
Southern District of Mississippi, to wit:

The President of the United States to Sidney M. Orton, greeting: Know ye, that trusting to your fidelity and provident circumspection in diligently examining Sarah N. Hubert, in a certain cause now depending in the Circuit Court of the United States for the District aforesaid, wherein B. R. and J. H. Truly are complainants, and Wanzer and Harrison are defendants, you are

requested, at such certain days and places as you shall appoint, to call and cause the said witness to come before you, and her diligently examine on oath, and her examination into the Circuit Court aforesaid, you distinctly and plainly set, together with this writ inclosed, with all convenient speed.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at Jackson, the 1st [L. S.] Monday in November, in the year of our Lord one thousand eight hundred and fifty, and in the 75th year of the Independence of the United States of America.

Issued the 4th day of April, 1851.

W. H. BROWN,
Clerk.

UNITED STATES OF AMERICA,
Southern District of Mississippi, Circuit Court U. S.

B. R. and J. H. TRULY
vs. } In Chancery.
WANZER & HARRISON.

Interrogatories to be propounded to Mrs. Sarah N. Hubert, of Nacogdoches, in the State of Texas, the answer to which it is proposed to read as evidence on behalf of the complainants, in the case of Bennet R. and John H. Truly, complainants, against Wanzer & Harrison, defendants, now pending in the Circuit Court of the United States for the Southern District of Mississippi, at Jackson, in Chancery.

Interrogatory 1st: Are you acquainted with the parties to this suit, or either or any of them?

Inter. 2d: Were you at any time, and if so, at what time, a resident of Madison County, in the State of Mississippi, and were you at that time a married or a single woman? If married, of whom were you the wife?

Inter. 3d: If you resided at any time in Madison county, Mississippi, state if any time during that residence you knew of any trade or contract of bargain and sale, between the said John R. Hubert and the said Bennet R. Truly. If so, state at what time, or about what time it occurred, and what was the subject-matter of it? Was it land, negroes, horses, cattle, mules, or other property?

Inter. 4th: Did John R. Hubert purchase of B. R. Truly, or did B. R. Truly purchase of John R. Hubert? In what trade?

Inter. 5th. If you know of your own knowledge what that contract was for, will you please describe the property by name, age, sex, color, or other peculiarity, if there be any; and state also, the number and price of each one, and the aggregate price of the whole.

Inter. 6th. Were the terms of such contract cash or credit? if cash, from was the money obtained, with which terms were complied with; if credit, what was the amount of the note made; by

whom was it made; to whom made, and to whom delivered; by whom was it signed, and by whom indorsed; and when and where was it payable? State any facts you may know of your own knowledge which will answer these questions, or tend to throw light upon the facts to which they refer.

Inter. 7th. Did the said John R. Hubert raise or purchase the property sold by him, if such be the fact, to said Bennet R. Truly? if you say it was purchased by him, state how you know that fact, and state also from whom such purchase was made by said John R., and when.

Inter. 8th. Was the person from whom the purchase was made a citizen of Madison County, Mississippi, or where did that person reside?

Inter. 9th. Was there one note, or more than one note arising out of the contract between said Hubert and said Truly?

Inter. 10th. If you know the terms of that contract, state them.

Inter. 11th. Have you any recollection that said Hubert received of said Truly one note, or more than one note? if more than one note, state how many.

Inter. 12th. If more than one note, what became of said notes? Have you any recollection that the person of whom said Hubert purchased said property received any note or notes from said Hubert, which said Hubert received from said Truly?

Inter. 13th. What was the condition of said Hubert's pecuniary affairs about the time he left the State of Mississippi; and if you have not before stated when he left, please say now at what time he did leave.

Inter. 14th. Had he at that time in his possession any note or either of the notes received by him from said Truly in payment of the property sold by him to said Truly (if such were the fact), previous to that time?

Inter. 15th. If it is known to you that he had such note or notes, please describe it or them, as near as you can as to the dates and amounts, and what else you may remember of it or them, and state what said Hubert did with said note or notes.

Inter. 16th. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? if yes, set forth the same fully and at large in your answer.

Messrs. Wanzer & Harrison, or Messrs. Van Winkle & Potter, their Solicitors of Record.

Gentlemen: You will please to take notice, that ten days after service of this notice, we shall sue out a commission from the office of the Clerk of the Circuit Court of the United States at Jackson, Mississippi, for the purpose of taking the deposition of Mrs. Sarah

N. Hubert in answer to the foregoing interrogatories, which we shall propose to read on our behalf in the trial of the cause now pending on the chancery side of said court, within which time you may file cross-interrogatories if you think proper.

Yours respectfully,

B. R. & J. H. TRULY,
By MAYES & CLIFTON,
their Solicitors.

JACKSON, *Jan.* 2, 1849.

Cross-interrogatories to be propounded to Mrs. Sarah N. Hubert by defendants, who insist and rely on their objections to interrogatories propounded by complainants.

Inter. 1. If you answer the 3d inter. propounded by complainants in the affirmative, please state fully how you know, and why you recollect the matters stated by you, particularly as to names, dates, amounts, &c.; state who told you so, and when and where you was so informed; state also where the trade or contract spoken of by you was made, and at what date it was made, and where you was at the time, and how you happen to know the facts to be as you state them.

Inter. 2d. State whether or not all the matters stated by you in your answers to the interrogatories propounded to you by complainants, are all known to you of your own knowledge, to be as you state them; if not, which of said matters you know of your own knowledge, and which of them you derived from the information of others; state how you know them to be as you have stated; what means of knowing you have had, and how you happen at this, the date of your answers, to know and recollect the matters so stated by you; also state if you are positive as to names, dates, amounts, &c., as to the matters so stated by you; and if so, how do you know them to be so? state particularly as to your means of information, &c.; if you have not in your answers to direct interrogatories, state fully and particularly the names, dates, amounts, &c., as to the matters so stated by you; please now state them, and state why and how you now know and recollect them, and whether you so know or recollect them of your own knowledge, or from the information of others.

Inter. 3d. State how you know and happen to recollect the matters stated by you in your answer to the 4th direct interrogatory.

Inter. 4th. If in answer to 5th direct inter. you state names, ages, &c., please state how you know and recollect the matters therein stated by you, and who told you so; state if you have any writing or memorandum showing any of those matters, and if so, who wrote it, and when and where did you get it, and from whom; state also if you speak from your own knowledge and present recollection, or from the contents of such writing or memorandum; state

in like manner as to your several answer to interrogatories of complainants.

Inter. 5th. If in answer to the 6th direct inter. you say there was a note or notes, and describe them; state how you know the fact to be so, and how at this time you happen to recollect the names, dates, amounts, &c. as stated by you; who told you them, where so, and when; do you make your statement from your present recollection of the facts, or as you find them on some memorandum or writing? if from a memorandum or writing, annex the same to your answer hereto.

Inter. 6th. State whether or not you know of any other transaction or trade between said Bennet R. Truly and John R. Hubert; if so, please state alt the particulars of any and every such transaction; stating what it was about, and giving names, dates, amounts, &c.; if any note or notes were given, describe them particularly; please state also, if you have heard said Bennet R. or John H. Truly say or admit that there was any such transaction; if so, what, and when.

Inter. 7th. If in answer to 7th direct inter. you say said John R. Hubert raised or purchased said property, &c., please state how you know the fact, where was you at the time, and who told you so?

Inter. 8th. If in your answer to the 9th direct inter. you say there was more than one note, please state how you know and who told you so, whether or not one of said notes did not originate in some other transaction; where were you when they were made, and to whom were they delivered. Did you see it done?

Inter. 9th. If in answer to 10th direct inter. you state the terms of said contract, please state how you know and recollect them, and who told you so. Was you present at the time when it was made, and where was that, and where was you at the time?

Inter. 10th. State how many notes that you know that said Hubert received from said Bennet R. Truly, in the whole, upon all of his transactions with him, and when he so received them; describe each of said notes as to dates, amounts, by whom made and indorsed, and when and where payable. State how you know and how you happened to know and recollect the matters stated by you in your answer to the 11th direct inter., and who told you so, and where was you at the time?

Inter. 11th. State particularly how you know what became of said notes, and how you happen to recollect it, and where you was at the time, and who told you so.

Inter. 12th. If you answer the 14th inter. in the affirmative, please state particularly how and why you know and recollect that he so had such note, who told you so, and how did you know it was received from said Truly in payment of property so sold? If you attempt a description of such note, please say how you are able to describe it. Have you the note before you, or a copy of it? if so, when, and where, and from whom did you get it? If you state what

said Hubert did with said note, please how you know it, who told you, &c.

Inter. 13th. Please state whether or not said John R. Hubert & Fletcher W. Hubert were partners in business. If so, state when and where, and for how long, and to what their business extended.

Inter. 14th. State whether or not you know anything of any plan, agreement, or attempt of said Bennet R. and John H. Truly, or either of them, to evade or defeat the judgment of Wanzer & Harrison enjoined in this cause, or any claim of theirs, and whether or not you have heard or seen any statement or admission of either said Bennet R. or John H. Truly, in relation to any such plan, agreement, or attempt; whether the same related to any suit or suits by certain heirs of Nicholson, or otherwise; if so, please state the same fully, and all particulars. State, also, if you know, when said Trulys, or either of them, were first informed of any claim to any slaves on the part of said heirs, or have heard either of them make any statement in relation thereto. If so, please state particulars, giving dates, &c.

Inter. 15. Please refer to each of the several statements made by you in your answer to the several interrogatories propounded by the complainants in this case, and say which of those several statements is made from your present knowledge and recollection of the facts, which of them you originally knew of your own knowledge, and which of them you derived from the writings, or statements, or information of others. Specify particularly as to each statement so made by you, and also state which of said statements are made from information derived by you from others, and how you happen at this late date to recollect so particularly the matters of which you have spoken. If any of the statements made by you are made from writings or memoranda, please state which of them, and from whom, and where you obtained such writings and memoranda, and also annex all such writings and memoranda to your answer hereto; and if you cannot, state why not, and annex copies of the same. State whether or not any person or persons has attempted to refresh your memory as to any of the matters testified by you; if so, what person or persons, and when, and where, and by what means, and how was such attempt made?

Be pleased to answer particularly and fully to the several cross-interrogatories, being those filed by defendants, propounded to you in this cause, and answer each clause of each cross-interrogatory fully and particularly.

Inter. 16th. Do you know or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause or either of them, or that may be material to the subject of this your examination or the matters in question in this cause? if yea, state the same fully and at large in your answers.

GEO. L. POTTER,
Sol. for Def'ts.

I waive further notice and time for filing cross-interrogatories for retaking deposition of Mrs. Sarah N. Hubert, under order of Court at May Term, 1850.

GEO. L. POTTER,
For Def'ts.

UNITED STATES OF AMERICA,
Southern District of Mississippi, Circuit Court U. S.

I, William H. Brown, Clerk of said Circuit Court, do hereby certify that the foregoing eight pages contain a true and complete copy of the original interrogatories in chief, and cross-interrogatories in the case therein named, as the same now remain on file in my office.

Given under my hand and seal of said Court at Jackson, this 4th day of April, A. D. 1850.

[L. S.] W. H. BROWN,
Clerk.
Per CHAS. H. ROGERS,
D. C.

Deposition.

THE STATE OF TEXAS,
County of Nacogdoches.

I, Sidney M. Orton, by virtue of the annexed commission to me directed from the Circuit Court of the United States for the Southern District of Mississippi, at Jackson, directing and empowering me to take the examination of Mrs. Sarah N. Hubert, as the witness in the case now pending in said Court, wherein Bennet R. Truly and John H. Truly are complainants, and one Wanzer & Harrison are defendants in Chancery, I have this day, being Monday, the twenty-first day of April, eighteen hundred and fifty-one, called and caused Mrs. Sarah N. Hubert, the witness therein named, to come before me at the dwelling-house of Mrs. Sarah N. Hubert, in the County of Nacogdoches, and State of Texas, about one mile in a Northern direction from the town of Nacogdoches, in said county; and, after swearing her upon the Holy Gospels to tell the truth, the whole truth, and nothing but the truth, I have proceeded at the hour of 10 o'clock in the morning of said day to take her answers to the interrogatories annexed to said commission as following, that is to say, answer to first interrogatory:—

Answer to interrogatory 1st. I know Bennet R. Truly and I have seen J. H. Truly; I have heard of the others, but do not know them.

Ans. 2d. I lived in Madison County, in the State of Mississippi, from about December, 1834, to about the first of November, 1837, and was the wife of John R. Hubert.

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Ans. 3d. I knew of a trade or contract between my husband, J. R. Hubert, and B. R. Truly, which trade took place in 1836. It was about negroes.

Ans. 4. B. R. Truly bought negroes of my husband, the late J. R. Hubert.

Answer 5th. I just answered that the contract was for negroes; I may say I knew this of my own knowledge; but the particulars of the contract—that is, what each negro was rated at—I cannot say. I do know of my own knowledge there were five negroes sold by my husband to B. R. Truly, (viz:) Alexander, or Alick, a yellow boy about twenty years old; Si, or Josiah, a black boy of medium size and about the same age of Alick; Polly, or Mary, a yellow girl about sixteen years old; and Peter, a small boy, say at that time about eight years old—(this boy was slightly crippled;) also Sam, a black man about twenty-two years old. This last one was not mentioned in my last deposition, owing to an oversight in my son, who wrote out my last answer. For these negroes B. R. Truly was to pay J. R. Hubert the sum of $7150, and executed to him two notes, $3570 each. These notes, when my husband left the State of Mississippi, he left with me, which was on the 8th day of Sept. 1837. One of these notes, by his esp'l direction, I sent to Hamilton McCauley, and the other I sent to Judge Nicholson.

Answer 6th. It was not a cash sale; the negroes were sold on credit; there were two notes, each for $3570—one was made by B. R. Truly, Dennis Burns, and William Southerland, payable, I think, to John R. Nicholson, but delivered to my husband, who indorsed it for him, as I understood it. It was dated Madisonville, Feb. 7th, 1837, due 12 months after the 1st March then next afterwards; the other was for the same amount, but dated 1st February, 1837, and due 12 months after date, and payable at the Brandon Bank, though expressed in other terms in the note; it was signed by B. R. Truly and indorsed by A. W. Robinson and W. O. Aldridge. The trade was made near the end of the year 1836, or the early part of 1837; the notes were not signed for some time afterwards.

Answer 7th. John R. Hubert bought the negroes I said he sold to B. R. Truly, of a man by the name of John R. Nicholson; this I know, because Nicholson had negroes for sale near Madisonville, where my husband then lived, and before the bargain was concluded I was told by my husband what was going on, and consulted about the trade when the negroes were bought; I saw them and knew they were bought of said Nicholson, as a public fact known to many in the village; I never heard it doubted by anybody at the time; they came home to our house and I think said Nicholson came from Alabama, and was a citizen there; he was not, I am sure, a citizen of Mississippi.

Answer 9th. I have before said there were two notes.

Answer 10th. I cannot say that I am fully acquainted with the terms of the contract; I know the contract was made, and the notes

made, but I should not have been able to state the amount, &c., if they had not been left with me by my husband, and the facts stated to me by him as to the contract notes, and if my memory had not been refreshed in part by a memorandum left by my husband of the notes sent to Judge Nicholson, in which one of these notes is spoken of, which memorandum was sent away, as I am told, with my first deposition, but has been returned and is annexed to this answer; it is dated Sept. 6th, 1837, and is signed by J. R. Hubert, and is backed by him and marked Exhibit (*B*), and is made a part of my answer. My husband was to give Nicholson $6000 for said negroes, and sold them for $7150. The man that brought them to this country was understood to be related to Judge Nicholson, and left my husband's note with him, and I sent the notes mentioned in that paper to Judge Nicholson to pay that note. My husband was much embarrassed, and left that country suddenly, but was anxious to pay or secure the Nicholson debt. I have also had memory refreshed by looking at a copy of one of said notes, and which, on inspection, I do believe to be a true copy; the dates and amounts correspond with what I have stated in my 6th answer, and also by statement of Hamilton McCauley, the whole of which are filed with this deposition and marked (*D*), and made a part of this my answer.

Answer 11th. He received more than one note; there were two.

Answer 12th. One of the notes, as mentioned in said memorandum marked (*B*), was sent to Judge Nicholson at Clinton, Mississippi, was intended in part to pay off my husband's note, which was left with him by John R. Nicholson; whether he ever received it or not, I do not know; the other Truly note was sent to Hamilton McCauley in a letter.

Answer 13th. He was much embarrassed. He left the 8th of Sept. 1837.

Answer 14th. He had both of said notes, with other notes, and left them in my possession before he started, as I have already stated.

Answer 15th. The notes are described as fully as can be, in my answer to 6th interrogatory; he left them with me be disposed of as stated, and they were so disposed of.

Answer 16th. I know of nothing more that would benefit either party.

Answer to cross-interrogatories.

1st cross-interrogatory. My husband and Mr. Truly were intimate friends. Mr. Truly was at our house before the trade was made; I knew it was going on; I was opposed to it, especially to selling Polly, or Mary, but Mr. Hubert was anxious to sell, because he was making about $1000; when the trade was agreed on my husband told me of it, and I saw him when he delivered the negroes to Mr. Truly, and when it was concluded my husband told me of it, and Truly had made the notes according to contract; the notes

were for $3575 each. The reasons why I recollect the transactions are, they took at Madisonville, where I then lived, and my husband always told me of his business transactions very freely and fully, and I also had the notes in my possession after my husband left; he had before informed me, and did then, that these were the notes that he got from B. R. Truly for the negroes, and he told me what was to be done with the notes and others, and they were so disposed of as he directed, by sending one to Hon. Isaac R. Nicholson by mail, and the other to Hamilton McCauley. My husband told me I have said about the notes; knowing the sale of the negroes to Mr. Truly and the amounts, I should have read what the notes were given for, without being told, as I said I had them in my possession, and my recollection as to their dates and amounts have been refreshed by looking at said memorandum, filed herewith, and at a copy of one of said notes, and at the answer of Hamilton McCauley to Wanzer and Harrison, which I wish taken as a part of my answer—see Exhibit (*D*). The trade was made late in the year 1836 or beginning of 1837; the facts as to sale I saw and knew.

Answer to 2d do. The facts I have stated are not all known to me of my own knowledge. I knew of the purchase of said Alick or Alexander, Si or Josiah, Polly or Mary, Peter, and Sam, of said John R. Nicholson, by my husband J. R. Hubert, of my own knowledge; I know, from information obtained both from him and my husband; the price I know to have been $6000. I knew of my own knowledge of the sale of said negroes to B. R. Truly by John R. Hubert; the prices I knew from information derived from my husband, and from seeing the notes; I knew of my own knowledge that these two notes, with others, were left with me to be sent, one to Judge Nicholson and the other to Hamilton McCauley, and I know of my own knowledge they were started accordingly; my means of knowing were such as every wife having the confidence of her husband has of knowing what takes place about their own house, in regard to a matter of fact of such importance as the buying and selling of so many negroes. I know and recollect these things, because I have tolerable good memory, and because it has been taxed by repeated inquiries, and refreshed in the manner above stated. I am positive as to the names of the negroes; I guess at their ages. I am confident as to the amounts of the notes, from looking at the memorandum as to one, and seeing the copy of McCauley's statement as to the other; and for the same reasons, I am satisfied the dates are rightly stated. The said John R. Nicholson, B. R. Truly, and McCauley, were all known to me and have been at my house. I have now, I believe, answered this question fully, as far as I understand it.

Ans. 3d. That is as to who was purchaser, I can only say that it was no matter of accident that I knew and recollect that my husband sold, and that B. R. Truly bought the negroes; it is a fact I can hardly forget.

Ans. 4th. I recollect the names of the negroes, and the descrip-

tion of them. I put the ages at what I now judge was correct from my recollection of them. I have no recollection who told me their names, my husband or the negroes themselves. I have no writing on this point. The bill of sale which my husband got from Nicholson for them has been lost or mislaid. I speak from my knowledge and present recollection.

In my answer thus far, I distinguish between knowledge and information, and shall continue to do so.

Ans. 5th. I have seen the notes often, and had them both in my possession for some time, and my husband made out the memorandum of one of the notes (with others); see Exhibit (*B*); and left the memorandum and notes with me when he left Mississippi, Sept. 1837, and he also left the other note described as above, in my answer to the 6th direct inter. inclosed in a letter directed to Hamilton McCauley; said memorandum I gave to B. R. Truly, when he was before in this country, but has returned it to me, and I recognize it as the very same, and herewith file it again as above stated. These statements I make from my own recollection of facts refreshed by looking at the memorandum, a copy of one of the notes and the answer of H. M'Cauley, above referred to, marked Exhibit (*D.*)

Ans. 6th. I know of no other transaction between said B. R. Truly and said J. R. Hubert; I have never heard said B. R. or J. H. Truly say or admit that there was any other such transaction.

Ans. 7th. I have said in answer to the 7th direct inter. that John R. Hubert bought the negroes of J. R. Nicholson. I was in Madisonville, where my husband lived at that time, and I can say with perfect confidence that I know it from my own knowledge. I knew Nicholson had negroes there for sale. I knew a trade was going on between him and Mr. Hubert, and I know when the negroes were brought home of course. I say also what I have equal confidence of, that Mr. Hubert told me all about it at the time and after it was finished.

Ans. 8th. I have said in answer to 9th direct inter., there were two notes; there was no other transaction between them, that is to say none that I ever knew of, between Mr. Hubert and B. R. Truly. My husband told me at the time of the contract about the negroes and afterwards informed me of the notes and the parties to them, when these two notes, with others, were left with me by him. I at once knew by looking at them, and comparing that with my previous knowledge, that they were the notes Truly had given for the negroes. My husband, I am sure, told me also they were the notes Truly had given for the negroes. Neither of said notes originated in any other way or was given for any other consideration. There was, I am certain, no other transaction between the parties. I was at home in Madisonville when said notes were made. I did not see them delivered, but saw them afterwards in Mr. Hubert's possession, and suppose they were delivered to him, of course. I don't say of my own knowledge that they were delivered to him.

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Ans. 9th. I know as much of the contract as I have stated in my answer to 10th direct inter., from the sources therein stated; the contract itself I know of my own knowledge, that is I know of the sale and delivery of the negroes; the terms of the contract I know from my husband, confirmed and corroborated by the notes left with me. I recollect them from my general recollection, refreshed as I have before stated. The contract was made in part at our house, in Madisonville, and in part at the store in the same place. I was then at home. Mr. Truly came up to the house during the time the trade was going on, and saw the house girl Polly or Mary. I knew the contract was made, because the negroes were delivered to Mr. Truly, and I feel confident I heard both him and Mr. Hubert speak of it in the presence of each other; it was made at the end of 1836 or beginning of 1837.

Ans. 10th. My husband received two notes from B. R. Truly, for said negroes, as I have already stated; there was no other transaction, I say again, that I know of between them; he received them, to the best of my knowledge and recollection, in February, 1837. One of said notes was dated Madisonville, February 7th, 1837, for $3,575, made by B. R. Truly, Dennis Burns, and William Southerland, due 12 months after the 1st of March thereafter, payable at no particular place. The other was dated 1st February, 1837, for same amount, and made by B. R. Truly, indorsed by A. W. Robinson and W. O. Aldridge, payable 12 months after date, at the banking house of the Mississippi and Alabama Railroad Company, at Brandon. These facts I know from having had said notes in my possession, and from having had my recollection refreshed by the memorandum before spoken of, by the copy of one of the notes, and by the statement of Hamilton McCauley, to whom I sent one of said notes; these papers are already filed in this deposition. I know he received two notes, because I had them in my possession.

Ans. 11th. I know what become of said notes because they were left with me to be sent one to Judge Nicholson, and the other to Hamilton McCauley, and they were so sent by my directions. Nobody told me so.

Ans. 12th. I recollect *he had* said notes, because he told me so, and because he left them in my possession. I knew they were received from said Truly, because I knew of the sale of the negroes to him for the price that said two notes, when added together, makes, and because at the time my husband told me they were the notes received from Truly for said negroes. I have attempted a description of the notes in my answer to the 10th cross-interrogatory, and there stated my sources of knowledge. I cannot say with certainty whether I could have described said notes without having my recollection refreshed as is therein stated or not; on examining said memorandum and copy of said note and McCauley's statement I was satisfied said dates and amounts are correctly given, the memorandum, a copy of one of said notes, and McCauley's state-

ment. As to the other note before me they were all furnished to me at this time by Mr. Truly. I know what said Hubert did with said notes, because he left them with me.

Ans. 13th. They were partners in the mercantile business at Madisonville from 1834 to the fall of 1837; say about three years.

Ans. 14th. I know nothing of my own knowledge of the suit between B. R. and J. H. Truly and Wanzer and Harrison; that is the suit, as I am informed, in which I am now giving evidence. I know nothing of it but what I learned from the questions. I know of no plan, agreement, or attempt on the part of said Truly to evade or upset the judgment of said Wanzer and Harrison, except the taking of my testimony to show they ought not in justice to pay it. I have neither heard nor seen any statement or admission of either of them in relation to any such plan, agreement or attempt further than this. Mr. B. R. Truly has told me that the negroes he bought of my husband had been sued for and recovered, or some of them, by the brothers and sisters of the man who sold them to my husband, and that he thought it would be wrong in the law to make him pay for them, and that he should lose about $4000 by the transaction, if he succeeded in defeating the judgment Wanzer and Harrison had against him on one of the notes given for said negroes, which he said he was advised by his lawyers and himself believe he would do. Mr. Truly said he never heard anything more than a mere rumor about there being any other title to said negroes but said John R. Nicholson, until the suits were brought and the negroes seized by the Chancery Court in Mississippi. Mr. Truly said the negroes Alick and Si had been taken, and a great hire for them, for which he *had had* to sell several negroes to pay, and that they were liable to Mr. Sheldon, in addition, for Polly or Mary; he said if he got clear of the judgment, the transaction would ruin him, if he did not, it would ruin his brother also. This is about the substance of conversations I have had with Mr. Truly on the subject, in the course of two visits he has made to this country. I do not know when they were first informed of any claim to said slaves. I never heard of it until I left Mississippi, 1837.

Ans. 15th. In answer to this inter., I will say, if it was not intended to perplex me, it is certainly very perplexing. As to my answer to 1st inter., I will say, I knew B. R. Truly from my present knowledge, and from my present knowledge I recollect these facts as far back as 1835 or 1836. As to answer to 2d, originally knew of my own knowledge. I lived in Madison County, Miss., for about three years, say from December, 1834, to November, 1837; and from the same source that I was the wife of John R. Hubert, since deceased. As to answer to 3d, I know of my own knowledge, that a trade about negroes took place between my husband and B. R. Truly, about December, 1836, because I heard the trade going on, and saw Mr. Truly when he came to examine the girl Polly, or Mary; I remember she shed tears freely when she

left; I also regretted having to part from her, because I was in hopes to have had her to assist me in my house business. And this shows my answer to 4th inter. is founded on my own original knowledge and present recollection. As to 5th, I know of my own original knowledge and present recollection, that my husband sold the same negroes he got of John R. Nicholson to B. R. Truly; I give their names as the names they went by when they came to us, and continued to go by until we sold them to Mr. Truly; their ages I state as a matter of judgment. The *sum* Mr. Truly was to pay I learned from my husband, who told me at the time of the sale; the amount of the notes I learned from having had them in my possession; I know that my husband and Mr. Truly had no other trade that I know of; and, therefore, I was satisfied these were the notes given by Mr. Truly for the negroes. My husband then told me so, and therefore I may say I did not know this fact originally of my own knowledge or present recollection, but from the information derived from Mr. Hubert. He left the notes with me, this I state from my own original knowledge and present recollection; I sent them, as directed, to Hamilton McCauley, and to Judge Nicholson, as repeatedly stated.

As to 6th, I said it was not a cash sale; this I said from what I knew at the time about the contract, one motive for making which was that my husband was making about $1000 by the trade; this I understood at the time from my husband. The dates, descriptions, &c., of the notes and amounts, I give from my original knowledge of said notes, when they were in my possession, revised and refreshed by the memorandum left by my husband, by looking at copy of one of said notes, and the answer of McCauley, all of which are filed hereinbefore; I state the terms of sale from recollection; I think I am right, the notes were not given until some time after Mr. Truly took the negroes from my house, and their being dated in February confirms my recollection as to the time the trade was made. As to 7th, in my answer to this. I have stated upon what foundation my *rests.* I could only repeat the same words, and here refer to them, and admit them.

As to 8th, I know of my own knowledge or present recollection, as to place Nicholson came from, in saying that I thought he came from Alabama; I only repeat what was generally said and understood in Madisonville, when he was there.

As to 9th, I said there were two notes, because I saw them, and had them in my possession.

As to my answer to 10th, my answer is so mixed up with knowledge of my own, and information from others, that I find it hard to divide or separate them; I know of my own knowledge and present recollection, that the sale of the negroes were made; the terms of the contract, that is the amount, I must have heard Mr. Truly and my husband speaking of, or had got them wholly from my husband at the time. The notes left with me correspond in amount, &c. with what I have heard from my husband, and I

knew they were in existence; I knew they were left with me to be sent away, one to Nicholson and one to McCauley. What I state about the man who brought the negroes, and sold them to Mr. Hubert, being related to Judge Nicholson, and his leaving my husband's notes with him, &c., are inferences from what I know, and from what took place afterwards; I have set out the sources from which my memory has been revived and refreshed in said answer, and I cannot think it necessary to repeat them. As to 11th, I state from my original knowledge and present recollection, that there were two notes, because I had them in my possession. As to 12th, I feel confident the notes was sent to Judge Nicholson; I state it of my present recollection, and I also state it as my present recollection, that I sent the other note to H. McCauley, because I thereby complied with the wish of my husband, and my mind has ever been at rest on that subject.

As to 13th, I speak from the issue; it has turned out that he was wholly insolvent; I state the time he left from memory, it was remarkable event to me, and I can't forget it.

As to 14th, I state from knowledge, that he had both of said notes just before he started, because he left them with me.

As to 15th, I have already described the notes, and stated the extent of my knowledge and recollection as original, and refreshed by the papers filed, and also the extent of my information, and the sources from which I received it.

Ans. to 16th. I have already said my knowledge and information were very much mixed up; as to these notes I may say, I knew of the sale, and I knew I had the notes, my husband told me at the time; and I may have heard Mr. Truly say at the time what the negroes sold for; the notes corresponded I know, but I suppose I speak from information, in saying these notes were given for the negroes, though I could never doubt that they were.

In further answering the 15th cross-inter. I state that no one has attempted to refresh my memory by any means, except that Mr. Truly has returned the memorandum he took away when he was first here, and by bringing a certified copy of one of said notes, and McCauley's statement as to the other, and I do not think that I have been misled by any person.

16th. I know nothing further to state in answer to this inter.

SARAH N. HUBERT.

And I do furthermore certify, that I did proceed to the house of Mrs. Sarah N. Hubert, in accordance to the power in me vested, and at 10 o'clock A. M. I did administer to her the proper oath, after which she did proceed to reduce those answers to writing, at her own request, and did assign and acknowledge them in my presence, on this, the 23d day of April, A. D. 1851.

S. M. ORTON, [SEAL.]
Commissioner.

Copy of Note, &c.

September 6, 1837.

I inclose to the Honorable Isaac R. Nicholson, Clinton, by mail, a note on B. R. Truly, Dennis Burns, Wm. Southerland, and J. R. Hubert, for due 1st March, 1837, . . .	$3,575
One do. on Joseph H. Taylor, indorsed by R. S. Hubert and J. R. Hubert, due 1st January, 1838, ...	2,500
One do. on R. S. Hubert, due 15th January, 1838, indorsed by J. R. Hubert for	960
	$7,035

As collateral security for a note due my me to John R. Nicholson for $6000, due 1st Jan. 1838.

J. R HUBERT.

THE STATE OF TEXAS,
County of Nacogdoches:

I, S. M. Orton, do certify, that I have attached those statements to the answers of Mrs. Sarah N. Hubert, this the 24th day of April, A. D. 1851.

S. M. ORTON, [SEAL.]
Commissioner.

Answer of McCauley.

UNITED STATES OF AMERICA,
Southern District of Mississippi, Circuit Court U. S.

JOHN R. NICHOLSON
vs.
BENNET R. TRULY, DENNIS BURNS, and WM. SOUTHERLAND; JNO. H. TRULY, Sec'y of F. Bond.

Judgment, June 4, 1838, for $3,646 $\frac{50}{100}$; forthcoming bond forfeited 5th Nov., 1838.

Copy of Note sued on.

$3,575.

MADISONVILLE, *February* 7, 1837.

Twelve months after date, the first day of March next, we jointly and severally promise to pay, without defalcation, to John R. Nicholson, or bearer, three thousand five hundred and seventy-five dollars, for value received.

B. R. TRULY,
DENNIS BURNS,
WILLIAM SOUTHERLAND.

WANZER & HARRISON
vs.
TRULY & MCCAULEY, garnishees, S. B. SHELDON *et al.*

Judgment Nov. 15, 1839, for $3,575, *vs.* Truly.

Copy of Answer of McCauley in the above case.

UNITED STATES OF AMERICA,
Southern District of Mississippi:

Circuit Court, Ninth Judicial Circuit, May Term, 1839.

This day Hamilton McCauley, summoned, &c. in the case of Moses Wanzer and Jabez Harrison, plaintiffs, against Samuel B. Sheldon, Fletcher W. Hubert, and John R. Hubert, defendants, to answer, &c. as garnishee, personally appeared in open court and made oath that he is not indebted to the said defendants, or either of them, in any sum of money, nor was he indebted to them, or either of them, at the time he was summoned, &c., nor has he now, nor did he have at the time he was summoned, &c., any of the effects of the said defendants, or either of them, otherwise than is hereafter to be stated.

That is to say, by a letter dated in July, 1837, John R. Hubert, one of the defendants in the foregoing suit, sent to the garnishee a note on Bennet R. Truly for the sum of three thousand five hundred and seventy-five dollars, payable to A. W. Robinson, bearing date the 1st of February, in the year 1837, and due twelve months after date, negotiable at the banking-house of the Mississippi and Alabama Railroad Company, at Brandon, with ten per cent. interest from the time was due until paid; said note was indorsed in blank by A. W. Robinson, W. O. Aldridge, to the said Hubert: the said Hubert at the time he sent the foregoing note to this respondent, he sent another note on C. C. Arnett, for the sum of one hundred and eighty-six dollars and fifty-three cents, payable to F. W. and J. R. Hubert, at the time he sent the foregoing notes; also sent another note to this respondent, drawn by Josiah Benner in favor of John W. Roy, or bearer, for the sum of four hundred and sixty-eight dollars, bearing date the ninth day of May, 1837, and due one day after date; upon which note a credit for the sum of one hundred and eighty-four dollars and forty-four cents is indorsed, bearing date the 10th August, 1837, and also a credit of twenty dollars given the 18th August, 1837. The note of Arnett, aforesaid, was also due one day after date. At the same time that the said Hubert sent the notes aforesaid, he directed this respondent in writing by the same letter inclosing the notes, to collect the aforesaid notes, and to apply the money when collected upon them to the payment of a draft drawn by the said Hubert, and the said Josiah Bonner and others, his sureties, for the sum of thirty-seven hundred and nine dollars and fifty-five cents, and accepted by Boggart & Hoopes,

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upon which draft suit had been commenced in the Circuit Court of the United States, at Jackson, in the name of the United States Bank, against the said John R. Hubert, and also in the name of the same against said Josiah Bonner, as alleged by said Hubert; said suit was returnable at the May Term, 1837, of said court, and judgment upon the same was expected to be obtained by said Hubert at the November Term, 1837, of said court, and was obtained at that time, as this respondent believes. This respondent states that none of the money due on the aforesaid notes so sent to him to be collected, was ever collected or applied in the manner said Hubert directed, but the same are now in his hands. He states that he believes that he, said Bonner has paid off and discharged the judgment aforesaid, obtained against him as the said Hubert's surety, on the bill of exchange aforesaid.

Now if this Honorable Court shall think that the property and right to the notes aforesaid is in the said John R. Hubert, then this respondent has in his hands the said notes, the effects of the said Hubert.

And this respondent does not know of any one else who owes to or has any other effects of the said defendants, or either of them, in their possession; nor has this respondent any other effects of the said defendants, or either of them, in his possession, nor did he have at the time he was summoned, &c., than as before stated; and now having answered, &c., he prays to be hence dismissed with his reasonable costs, charges, &c.

HAMILTON McCAULEY.

Sworn to before me the 6th May, 1839.

WM. BURNS,
Clerk.

UNITED STATES OF AMERICA,
Southern District of Mississippi, Circuit Court U. S.

I, William H. Brown, Clerk of the Circuit Court of the United States for said District, do hereby certify, that the foregoing copy of the above stated note and answer are true copies of the originals on file in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at Jackson, this 5th day of April, 1851.

W. H. BROWN,
Clerk.

THE STATE OF TEXAS,
County of Nacogdoches:

I, Sidney M. Orton, do hereby certify, that I have this day attached the foregoing papers to the answers of Mrs. Sarah N. Hubert to the interrogatories in this case.

S. M. ORTON, [SEAL.]
Commissioner.

April 24, A. D. 1851.

UNITED STATES OF AMERICA,
Southern District of Mississippi.
May Term, 1851.

B. R. and J. H. TRULY
vs.
WANZER & HARRISON. } In Chancery.

In this case, B. R. Truly, one of the complainants, being duly sworn makes oath, that the deposition of Mrs. Sarah Hubert, a witness for the complainants, residing in the State of Texas, was delivered by him to the clerk of this court, on this the first day of the present May Term, 1851. That he himself, in person, took the commission and interrogatories, upon which said deposition was taken, from the hands of the clerk of this court, about the 5th day of April last past, and delivered them into the hands of S. M. Orton, Esq., the commissioner named in said commission; that he afterwards received from S. M. Orton the package he this day delivered to the clerk as aforesaid, which he was informed and believes was the deposition of said Mrs. Sarah Hubert. That said package was sealed by said commissioner in the presence of affiant, and was by him addressed to the Judges, &c., as it now appears, and then, thus sealed and addressed, was delivered to this affiant; that the same has been and remained in his constant and uninterrupted possession from the time it was received, to the moment of its delivery to the clerk, and this affiant can, and does positively state, from his own knowledge, that said deposition has not been in any respect changed or altered, nor said sealed envelop in any manner broken.

B. R. TRULY.

Sworn to and subscribed this 5th day of May, A. D. 1851.

W. H. BROWN,
U. S. Commissioner.

UNITED STATES OF AMERICA,
Southern District of Mississippi, to wit:

The President of the United States to William H. Brown and Leonidas V. Dixon or either of them, greeting:—

Know ye, that trusting to your fidelity and provident circumspection in diligently examining A. W. Robinson, in a certain cause now depending in the Circuit Court of the United States, for the District aforesaid, wherein B. R. and J. H. Truly are complainants, and Wanzer & Harrison are defendants, you are requested at such certain days and places as you shall appoint, to call and cause the said witness to come before you, and him diligently examine on oath, and his examination into the Circuit Court aforesaid you distinctly and plainly set, together with this writ inclosed, with all convenient speed.

Witness the Honorable Roger B. Taney, Chief Justice of the Supreme Court of the United States, at Jackson, the 1st [L. S.] Monday in May, in the year of our Lord one thousand eight hundred and fifty-one, and in the 75th year of the Independence of the United States of America.

Issued the fifth day of May, 1851.

WM. H. BROWN,
Clerk.

Per AM. BROWN,
D. Clerk.

BENNET R. TRULY *et al.*
vs.
WANZER & HARRISON.

In Chancery in the United States Circuit Court for the Southern District of Mississippi.

Interrogatories to Augustus W. Robinson.

Inter. 1st: Do you know anything of a note drawn by B. R. Truly, of Madison County, to you, for the sum of $3,575, dated 1st February, 1837, and payable twelve months after date, and which was for his benefit? If so, please state whether said note was drawn for the purpose of being delivered to John R. Hubert, late of said county, as a payment to him by said Truly.

Inter. 2d: Do you know or can you state the consideration passing between said Hubert and said Truly for said note? If so, state fully and particularly what that consideration was.

Inter. 3d: Did you have any knowledge of the purchase by said Truly, of said Hubert, of a certain number of slaves on or about February, 1837? If so, state all the circumstances connected with said purchase, number of negroes, names, price of each, by whom they were brought to the country, in what manner they were to be paid for.

Inter. 4th: Did you reside in the same neighborhood with said B. R. Truly and said John R. Hubert, about the year 1837, and were you acquainted with their business transactions? If so, state what contracts if any, were made between them about that time.

Inter. 5th: Were you at any time the indorser of any other note made by said B. R. Truly, for $3,575, except the one already mentioned in answer to the foregoing interrogatories?

Inter. 6th: Do you know or can you set forth any other matter or thing, which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

Cross-interrogatories to be propounded to Augustus W. Robinson, by defendants, who rely and insist on their objections to interrogatories propounded by complainants.

1st. If you answer the first interrogatory in the affirmative, please state fully how you know, and why you recollect the matters stated by you, and particularly as to names, dates, amounts, &c.

2d. If you say in answer to second direct interrogatory, that you know the consideration, please state fully how you know, and why you recollect the matters stated by you, and particularly as to names, dates, amounts, &c.

3d. If in answer to third direct interrogatory, you say you know of such purchase, please state fully how you know, and why you recollect the matters stated by you, and particularly as to names, dates, amounts, &c.

4th. State whether or not the matters stated by you in your answer to the second direct interrogatory propounded by complainants and are all known to you of your own knowledge, and which of them you derived from the information of others. State how you know them, what means of knowing you have had, and why you happen at the date of your answer to recollect the matters so stated by you. Also state if you are positive as to names, dates, amounts, &c. as to the matters so stated by you, and if so, how do you know them to be so? State particularly as to your means of information, recollection, &c. If you have not in your said answers stated fully and particularly the dates, amounts, names, &c. as to the matters so stated by you, please now state them, and state why and how you know and recollect them, and whether you so know and recollect them of your own knowledge, or from information of others.

5th. State whether or not you know of any other transaction between said B. R. Truly and John R. Hubert. If so, please state all the particulars of any and every such transaction, stating what it was about, and giving names, dates, amounts, &c. If any note or notes were given, describe them particularly. State if you heard said Bennet R. or John H. Truly say or admit, there was any such other transaction. If so, what and where?

6th. State whether or not you ever indorsed any other note or bill made or drawn by Bennet R. Truly. If so, describe fully and particularly all such note or notes, bill or bills, giving names, dates, amounts, &c. State also when, where, and why you so indorsed, and in whose presence, and what disposition was made of the same, &c. &c., giving all particulars of the transaction.

7th. State whether or not said Hubert and Fletcher W. Hubert were partners in business. If so, state when and where, and how they continued to be so, and to what their business extended.

8th. State whether or not said Bennet R. has sold any of the negroes mentioned or referred to by you in your answers to the direct interrogatories propounded to you, and if so, when so sold, and state what statements you have heard said Bennet R. or John

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H. Truly make in relation thereto. State also, whether or not said Bennet R. is insolvent, and if so, how long has he been so.

9th. State whether or not you know anything of any plan, agreement, or attempt of the said Bennet R. or John H. Truly, or either of them, to evade or defeat the judgment in favor of Wanzer and Harrison enjoined in this suit, or any claim of theirs, and whether or not you have heard any statements of either said Bennet R. or John H. in relation to any such plan, agreement, or attempt—whether the same related to any suit or suits by certain heirs of Nicholson, or otherwise. If so, state the same fully, and all particulars. State whether or not you know when said Trulys, or either of them, were first informed of any claim to any slaves on the part said heirs, or have heard either of said Trulys make any statements in relation thereto. If so, state the same fully, giving dates, &c.

10th. Do you know, or can you set forth, any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, set forth the same fully and at large in your answer.

VAN WINKLE & POTTER,
Solicitors for Defendants.

UNITED STATES OF AMERICA,
Southern District of Mississippi,
Circuit Court United States:

I, William H. Brown, Clerk of said Circuit Court, do hereby certify that the foregoing interrogatories in chief, and cross-interrogatories, are truly copied from the originals on file in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court, at Jackson, the 6th day of May, A. D. [L. S.] 1851, and of the Independence of the United States the seventy-fifth.

W. H. BROWN,
Clerk.
Per A. M. BROWN,
Deputy Clerk.

UNITED STATES OF AMERICA,
Southern District of Mississippi,
Circuit Court United States:

B. R. & J. H. TRULY
vs.
WANZER and HARRISON. } In Chancery.

Be it remembered, that on this 5th day of May, A. D. 1851, personally appeared before me A. W. Robinson, a witness in the above entitled cause, now pending and undecided in said Circuit Court of

the United States, who, being by me first duly cautioned and sworn, did depose and say as follows, to wit:—

In answer to the first interrogatory in chief. I gave Mr. B. R. Truly my blank signature about that time, which I understood was to be applied to the purchase of negroes; I do not know to whom it was to be delivered, as I recollect.

Answer to 2d interrogatory. I do not know.

Answer to 3d interrogatory. I have not.

Answer to 4th interrogatory. I resided about 5 or 6 miles from said Truly and Hubert, but know nothing in regard to any transaction between them.

Answer to 5th interrogatory. I was not, nor have I any knowledge of this one, except as answered by my answer to first interrogatory.

Answer to 6th interrogatory. I cannot.

Answers to cross-interrogatories.

Answer to 1st cross-interrogatory. I have answered as fully as I recollect, in my answer to the 1st interrogatory in chief.

Answer to 2d cross-interrogatory. Answered by answer to 2d interrogatory in chief.

Answer to 3d cross-interrogatory. I have answered this by my answer to 3d interrogatory in chief.

Answer to 4th cross-interrogatory. I have answered this by my answer to 4th interrogatory in chief.

Answer to 5th cross-interrogatory. I have answered this by my answer to 4th interrogatory in chief.

Answer to 6th cross-interrogatory. I have answered this by my answer to 5th interrogatory in chief.

Answer to 7th cross-interrogatory. I do not know either of the persons named in this interrogatory.

Answer to 8th cross-interrogatory. I know nothing of his having sold any negroes referred to, nor do I know anything certain in regard to his solvency. I have heard B. R. Truly mention something in regard to the sale of some negroes, but what, I do not recollect.

Answer to 9th cross-interrogatory. I do not know anything in regard to the matters mentioned in this interrogatory.

Answer to 10th cross-interrogatory. I cannot.

And further this deponent saith not.

A. W. ROBINSON.

UNITED STATES OF AMERICA,
Southern District of Mississippi:

I, William H. Brown, one of the commissioners named in the annexed commission, do hereby certify that the foregoing two pages, containing the deposition of A. W. Robinson, to be read in evidence

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on the trial of the cause above mentioned, was regularly taken before me, in pursuance to said commission, at my office in the city of Jackson, in said District, between the hours of 10 A. M. and 6 P. M., on the 5th day of May, A. D. 1851. Said deposition reduced to writing by me in presence of said witness, and by him subscribed and sworn to.

In testimony whereof I have hereunto set my hand, this 5th day of May, A. D. 1851.

W. H. BROWN,
Commissioner.

Fees $5, paid by A. C. Downs.

Interrogatories.

Interrogatories to be propounded to Mrs. Sarah N. Hubert, a witness to be produced, sworn, and examined before Sidney M. Orton, commissioner, in the county of Nacogdoches and State of Texas, on behalf of the defendants in a certain cause in equity, pending in the Circuit Court of the United States for the Southern District of Mississippi, wherein Bennet R. Truly and John H. Truly are complainants, and Wanzer and Harrison are defendants, and whose answers thereto are to be read in evidence on behalf of said defendants on the trial of said cause. Said examination being had under an order of said court, made at the May term thereof, A. D. 1852, allowing said defendants to cross-examine said witness in said cause.

Inter. 1st. State whether or not you are acquainted with Isaac H. Whitehead; and, if yea, for how long have you known him, and where does he reside?

Inter. 2d. Please state whether or not you had any conversation with said Whitehead before the 1st of January, 1852, relative to any matters connected with said above-named cause or in relation to your knowledge of said matters. If yea, state when and where it was.

Inter. 3d. Look upon the paper hereto annexed, marked *A*, and state, if you know, who wrote the same, and when and where it was written. State whether or not the questions therein contained were propounded to any person or persons; and, if yea, when, where, and by whom, and to whom were they propounded.

State, also, whether or not the answers therein contained were made by any person or persons, and, if yea, by whom and to whom were they made, and when and where were they made. State, also, whether or not said answers were made in response to any questions, and, if yea, to what questions, and by whom were those questions propounded, and what was the purpose of such examination.

Inter. 4th. State whether or not the said questions contained in said paper, marked *A*, were not propounded to you by said Whitehead, and whether or not the said answers thereto were not made

by you as they are in said paper set down, and whether or not you answered the said questions so propounded, in substance and effect as therein stated. If yea, why did you make the said answers and statements? and state what answers you made to said questions.

Inter. 5th. State what you know of the truth or falsity of the said answers to said questions, and whether or not your said answers to said questions, as set down in said paper marked *A*, were true or false.

Inter. 6th. Look at said paper, marked *A*, and say what deposition is referred to in the first interrogatory therein contained, and in what cause said deposition was taken, and by whom said deposition was made and given. State, also, what notes are referred to in the said answer to said interrogatory, and in the second and eighth of said questions and the answers thereto. State, also, what negroes are referred to in said questions and answers contained in said paper, marked *A*, and whether or not the said notes therein mentioned are the same you attempted to describe in your deposition in this cause, taken the 21st of April, 1851, before Sidney M. Orton, Commissioner, the same being your last taken deposition in this cause.

Inter. 7th. Look upon the paper hereto annexed, marked *B*, and say whether or not the same is a true copy of the said paper in said questions and answers referred to as Exhibit marked *B*; and also state what has become of said paper referred to as Exhibit *B*, in said answers, and state when you last saw it, and what was then done with it.

Inter. 8th. State whether or not said Whitehead ever heretofore propounded any questions to you touching any of the matters referred to in the said paper marked *A*. If yea, what questions were they, and when and where did he ask you such questions, and what were your answers thereto? State, also, whether or not your said answers thereto were true or untrue.

Inter. 9th. State whether or not you knew John R. Hubert and Fletcher W. Hubert, and where they resided in the years 1836 and 1837, and whether or not they were partners in trade. If yea, in what business were they partners, and when and where did they carry on such business. State also whether or not the complainant, B. R. Truly, was a customer of and did business with said firm, and, if so, when, where, and to what amount.

Inter. 10th. Look upon the certified copy of a note contained in paper marked *C*, hereto annexed, and state what you know of the original of said note, and of the consideration for which said note was given, and for whose benefit the same was given. If yea, state the same fully; that is to say, state what you know of your own knowledge, and that only.

Inter. 11th. State what was the relationship existing between said John R. Hubert and Fletcher W. Hubert, and whether or not either of them was accustomed or did use notes or other claims be-

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longing to the other in the transaction of his private business or the business of said firm. If yea, which of them, and under what circumstances.

Inter. 12th. Can you say, of your own knowledge, that the original note of which said paper, marked *C*, contains a copy, was not given by said complainant, B. R. Truly, to said John R. Hubert in part payment for said slaves mentioned in your said deposition, taken before said Orton the 21st of April, 1851? If you can, then state on what grounds you make the statements.

Inter. 13th. Look upon copy of a deed hereto annexed, marked *D*, and state what you know of the original thereof, and of the consideration on which said deed was executed.

State whether or not you know that said two notes mentioned by you in your said deposition taken before said Orton the 21st of April, 1851, or one of them, was not given in part payment for said lands in said deed described. If you say you know that neither of said notes was so given, please state how you know it.

Inter. 14th. In your last deposition taken in this cause, to wit: in the said deposition taken before said Orton the 21st April, 1851, you refer to a memorandum as made and left with you by John R. Hubert, and which memorandum is referred to in your said deposition as Exhibit *B*, and you therein say that your memory had been refreshed by looking at said memorandum. Please state how you was able to give the date of said note for $3,575 in said memorandum referred to, and state whether or not your memory was so refreshed by an inspection of said memorandum as to enable you at that time to state from mere recollection any matter not stated in said memorandum. If so, state fully how your memory was thus refreshed, and as to what particular facts.

Inter. 15th. In your said last named deposition you also refer to a copy of a note, and to a copy of the answer or statement of Hamilton McCauley, which copies are certified by W. H. Brown, as Clerk of said Circuit Court, and are in your said last named deposition referred to as Exhibit *D*, and you in your said deposition state that your memory has been refreshed by an inspection of the said copies.

Please now state whether or not you ever saw said Brown write, and how you know of your own knowledge that said Exhibit *D*, in your said deposition referred to, contains a correct copy of any note whatever, or that it contains a correct copy of any statement or answer ever made by said McCauley, or that said McCauley ever made any answer at all in the matter referred to in said last named Exhibit. Did you ever see any such answer signed by said Mc Cauley? and, if yea, when was it made, and when and where did you see it? State, also, whether or not the paper hereto annexed, marked *A*, refreshes your memory in any particular; and, if yea, in what particular; and how do you know it to be a correct copy of anything?

Inter. 16th. When in your said last-mentioned deposition you spoke of your memory having been refreshed by an inspection of the papers, marked Exhibit *B* and *D*, thereto annexed, what was your meaning? State whether or not you meant, in giving your said last-mentioned deposition, to say that after such inspection you did distinctly recollect apart from said papers, as a mere matter of memory, the dates and amounts of the two notes mentioned in your said deposition, and the parties by whom said notes were made, and to whom and where they or either of them were payable, and the dates of the maturity of said notes or either of them; and, if yea, state how your memory was refreshed by the contents of said Exhibit *D*, to your said deposition; if nay, state whether or not you took it for granted that said last named Exhibit *D* contained true copies of things you supposed to be correct and genuine, and made your statements in your said deposition upon what you saw therein stated, without recollecting anything of those matters apart from said Exhibit *D*. State fully upon what grounds you spoke in your said deposition of having your memory refreshed by an inspection of said documents therein referred to.

Inter. 17th. State whether or not said complainant, Bennet R. Truly, informed you at or about the time of taking your first deposition in this cause, for what said notes, mentioned in your said deposition, taken before said Orton, on the 21st April, 1851, were given; and whether or not your statements in your said last-mentioned deposition, in relation to the notes therein mentioned, and the consideration of said notes were founded on such said statement, made to you by said Truly, and upon your belief that such statement made by him was correct. State fully whether or not your said deposition was based in whole, or in part, upon your confidence in statements made to you by said Truly. If yea, what parts of your said deposition was made on the faith of such statements?

Inter. 18th. Do you know, or can you set forth any other matter or thing which may be a benefit or advantage to the parties at issue in this cause, or either of them, or that may be material to the subject of this your examination, or the matters in question in this cause? If yea, state the same fully and at large in your answers.

GEO. L. POTTER,
Sol. for Def'ts.

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Paper marked B, referred to in foregoing interrogatories.

Sept. 6th, 1837.

I inclose to the Honorable Isaac R. Nicholson, Clinton, by mail, a note on B. R. Truly, Dennis Burns, Wm. Southerland and J. R. Hubert, for due 1st Mar. 1838, for .	$3,575
One do. on Joseph M. Taylor, indorsed by R. L. Hubert and J. R. Hubert, due 1st Jan., 1838, ...	2,500
One do. on R. L. Hubert, due 15th Jan., 1838, indorsed by J. R. Hubert, for	960
	$7,035

As collateral security for a note due by me to John R. Nicholson, for $6,000, due 1 Jan., 1838.

J. R. HUBERT.

In the Circuit Court of the United States for the Southern District of Mississippi, in Chancery.

B. R. & J. H. TRULY, complainants,
vs.
WANZER & HARRISON, defendants. } 155.

To Bennet R. Truly and John H. Truly, complainants in said above-named cause, or Caswell R. Clifton, Esq., their Solicitor.

Please take notice, that the foregoing interrogatories and exhibits thereto, have been this day filed in said court in said cause, and that after the expiration of ten days after the service of this notice upon you, a commission will be issued from said court, at the instance of said defendants, to take the deposition of Mrs. Sarah N. Hubert in said cause, upon said interrogatories, at her residence, in the County of Nacogdoches, in the State of Texas; said commission to be addressed to Sidney M. Orton, as Commissioner. Meantime you can file cross-inter.

Respectfully,

GEO. L. POTTER,
Sol. for Def'ts.

JACKSON, *Oct.* 11, 1852.

Received a copy of the foregoing interrogatories, exhibits, and notice, this 11th October, 1852, but in acknowledging service waive no right, but reserving everything to which complainants would be entitled, in case this notice were served by a competent officer.

C. R. CLIFTON,
Of Counsel for Compl'ts.

Cross-interrogatories by compl'ts to Mrs. Sarah N. Hubert.

Cross-inter. 1st. If in answer to defendants' 2d interrogatory, you state that you had any conversation with Isaac H. Whitehead before 1st Jan., 1852, relative to any matters connected with the above-named case, state what brought about such conversation, at whose instance was it held, and all the circumstances attending it.

Cross-inter. 2d. If you answer that you know anything of the questions and answers referred to in third interrogatory, state under what pretence they were put, and by whom, and for whom, and under what authority did such person claim to be acting?

Cross-inter. 3d. Are you certain of the identity of the paper marked *A*, and that you was present at its writing, and if you are, what enables you to identify it?

D. MAYES,
Sol. for Comp'ts.

The deposition upon the foregoing interrogatories not returned into this court.

Final Decree.

JOHN H. and BENNET R. TRULY
vs.
MOSES WANZER and JABEZ HARRISON. } 155. In Equity.

This cause came on to be heard upon the bill and supplemental bills, and the exhibits therein, the answers, exhibits therewith, and depositions. And the Court being now sufficiently advised of and concerning the premises, it is finally ordered, adjudged, and decreed, that the injunction granted herein be and the same is made perpetual; and it is further decreed and ordered, that the defendants pay to the complainants their costs in this suit expended.

Ordered, adjudged, and decreed, this 12th day of May, A. D. 1853.

(Signed) P. V. DANIEL,
S. J. GHOLSON.

From which decree the defendants pray an appeal to the Supreme Court of the United States, which is granted upon their executing bond in the penalty of five hundred dollars, conditioned according to law, with George L. Potter as security therein, and bond presented and approved.

Copy of Appeal Bond.

Know all men by these presents that we, Moses Wanzer, Jabez Harrison, and George L. Potter, are held and firmly bound unto Bennet R. Truly and John H. Truly in the just and full sum of five hundred dollars, for which payment, well and truly to be made, we

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and each of us bind ourselves, and each our heirs, executors, and administrators, firmly by these presents: sealed with our seals, and dated this twelfth day of May, A. D. 1853.

The condition of this obligation is such that, whereas the said above named Wanzer & Harrison have this day prayed and obtained from the Circuit Court of the United States for the Southern District of Mississippi an appeal to the next ensuing term of the Supreme Court of the United States, from a decree this day rendered by said Circuit Court in a certain cause in equity therein, wherein the said Bennet R. Truly and John H. Truly were complainants, and the said Wanzer & Harrison were defendants, whereby the certain judgment in favor of said Wanzer & Harrison therein referred to was perpetually enjoined, and the said Wanzer & Harrison decreed to pay the costs of said suit—

Now, if the said Wanzer & Harrison shall prosecute their said appeal with effect, or in case they shall fail therein, shall pay all costs and damages adjudged against them by the said Supreme Court, and also the said costs adjudged against them by said decree, then this obligation to be void, otherwise to remain in full force.

MOSES WANZER, [SEAL.]
By GEO. L. POTTER,
His Attorney in fact.
JABEZ HARRISON, [SEAL.]
By GEO. L. POTTER,
His Attorney in fact.
GEO. L. POTTER, [SEAL.]

UNITED STATES OF AMERICA,
Southern District of Mississippi,
Circuit Court United States:

I, William H. Brown, Clerk of said Circuit Court, do hereby certify that the foregoing two hundred and sixty-four pages contain a full, true, and complete transcript of the record of the decree rendered in the case therein named as the same now remains of record in my office.

In testimony whereof, I have hereunto set my hand and affixed the seal of said Court, at Jackson, this 18th day of January, A. D. 1854, and of the Independence of the United States the 78th.

[SEAL.] W. H. BROWN,
Clerk.

UNITED STATES OF AMERICA,
Southern District of Mississippi,
Circuit Court United States:

I, Peter V. Daniel, Presiding Judge of said Circuit Court, do hereby certify that William H. Brown, whose name is subscribed